



BellSouth Telecommunications, Inc. 615 214-6301  
Suite 2101 Fax 615 214-7406  
333 Commerce Street  
Nashville, Tennessee 37201-3300

Guy M. Hicks  
General Counsel

February 25, 2000

VIA HAND DELIVERY

David Waddell, Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37238

Re: *Petition for Arbitration of the Interconnection Agreement Between BellSouth Telecommunications, Inc. and NOW Communications, Inc. Pursuant to the Telecommunications Act of 1996*

Docket No.      00-00141

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of the Petition for Arbitration of the Interconnection Agreement Between BellSouth Telecommunications, Inc. and NOW Communications, Inc. Pursuant to the Telecommunications Act of 1996. Copies of the enclosed are being provided to counsel of record for all parties.

Very truly yours,

*Guy Hicks*  
Guy M. Hicks *ch by permission*

GMH:ch  
Enclosure

**PAID**  
2-25-00  
walkin

**POSTED**  
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CK# 590  
\$ 25.00

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

Nashville, Tennessee

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TENN. REG. AUTH.

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EXECUTIVE SECRETARY

In re:

Petition for Arbitration of the Interconnection  
Agreement Between BellSouth Telecommunications,  
Inc. and NOW Communications, Inc. Pursuant  
to the Telecommunications Act of 1996.

Docket No.

00-00141

**PETITION OF BELL SOUTH TELECOMMUNICATIONS, INC.**  
**FOR SECTION 252(b) ARBITRATION**

Pursuant to Section 252(b) of the Telecommunications Act of 1996 ("1996 Act"), BellSouth Telecommunications, Inc. ("BellSouth") files this Petition for Arbitration ("Petition") seeking resolution of certain issues arising between NOW Communications, Inc. ("NOW") and BellSouth in the negotiation of a Resale Agreement. BellSouth states as follows:

**A. STATEMENT OF FACTS**

1. BellSouth is a corporation organized and existing under the laws of the State of Georgia, maintaining its principal place of business at 675 West Peachtree Street, N.E., Atlanta, Georgia 30375. BellSouth is an incumbent local exchange carrier ("ILEC") as defined by 47 U.S.C. § 251(h).

2. On information and belief, NOW is a corporation organized and existing under the laws of the State of Mississippi, maintaining its principal place of business at 713 Country Place Drive, Jackson, Mississippi 39208. Upon information and belief, NOW is certificated by the Tennessee Regulatory Authority ("Authority") as a reseller of telecommunication services.

Additionally, upon information and belief, and pursuant to the aforementioned certificate, NOW provides resold telecommunications services to customers in the State of Tennessee.

3. Pursuant to the provisions of Section 251(c) the 1996 Act, BellSouth is required to offer (through negotiation or otherwise) for resale at wholesale rates, any telecommunications service that it provides at retail to subscribers who are not telecommunications carriers. *See* 47 U.S.C. § 251(c)(4). The terms of the resale agreement must comply with the provisions of Section 251(b) of the 1996 Act. *See* 47 U.S.C. § 251(b)(1).

4. Under the provisions of Section 252(d) of the 1996 Act, BellSouth must make available its retail services for resale at wholesale rates that are determined by the State Authority on the basis of the retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier. *See* 47 U.S.C. § 252(d)(3).

5. On or about June 1, 1997, BellSouth and NOW entered into an agreement to govern the resale of BellSouth's retail services by NOW (the "BellSouth/NOW Resale Agreement"). The Authority approved the BellSouth/NOW Resale Agreement on or about March 10, 1998. The term of the BellSouth/NOW Resale Agreement was for two years, expiring on May 31, 1999. Pursuant to the terms of the BellSouth/NOW Resale Agreement, the parties have agreed to continue service pursuant to its terms until such time as a new Resale Agreement is in effect.

6. BellSouth originally provided a copy of BellSouth's then current standard resale agreement to NOW for review and consideration on October 2, 1998, as well as a proposed amendment to the existing contract with respect to charges for access to BellSouth's operations support systems ("OSS"). The parties did not come to agreement over either proposed contract

matter at that time. Thus, on August 20, 1999, BellSouth provided to NOW a written request for negotiation of a new resale agreement. A copy of the letter is attached hereto as Exhibit "A". BellSouth advised NOW that it was providing notice, pursuant to and in compliance with Section 251(c)(1) of the 1996 Act, of BellSouth's request to commence good-faith negotiations toward a new agreement. BellSouth again included a copy of BellSouth's current Standard Resale Agreement for NOW's consideration and review. NOW did not provide a written response to BellSouth's letter.

7. At NOW's request, BellSouth provided additional information regarding the proposed resale agreement by faxing a brief memorandum note with a page from the agreement on September 2, 1999. BellSouth also requested NOW to advise BellSouth if there were any issues or proposed changes or questions with respect to the draft resale agreement. A copy of the fax memorandum is attached hereto as Exhibit "B". NOW did not provide a written response to BellSouth's memorandum.

8. BellSouth sent a follow-up letter to NOW on December 22, 1999, regarding the negotiations toward a new resale agreement and enclosed, again, the most current version of BellSouth's standard resale agreement as the basis for negotiating a new resale agreement. BellSouth also attempted to address some concerns raised by NOW as a result of separate litigation pending between the parties. BellSouth pointed out that the litigation was separate from the parties' obligation to negotiate in good faith a new resale agreement between the parties. A copy of the letter, without the attached draft resale agreement, is attached hereto as Exhibit "C".

9. Subsequently, BellSouth became aware that NOW was acquiring the assets of another CLEC with whom BellSouth also had a resale agreement that had expired. As a result,

NOW and BellSouth had a number of discussions regarding this matter, both by telephone and in a meeting in Atlanta, Georgia on January 13, 2000. Ultimately, NOW did acquire the assets of the other CLEC. At the January 13, 2000, meeting, BellSouth again furnished a copy of the standard resale agreement to NOW believing that the parties could finally conclude their discussions and execute a new resale agreement. Although the parties did discuss the resale agreement, no agreement was reached. On January 20, 2000, NOW informed BellSouth that it desired to negotiate an interconnection agreement, rather than just a resale agreement, thus, at NOW's request, BellSouth furnished a copy of BellSouth's standard interconnection agreement to NOW on that same day. On January 21, 2000, NOW wrote a letter to BellSouth requesting a thirty (30) day extension of the arbitration window deadline so that the parties could negotiate an interconnection agreement rather than a resale agreement. In this letter, NOW expressly recognized that OSS cost recovery is an appropriate cost element to be included in an interconnection agreement. A copy of the letter is attached hereto as Exhibit "D".

10. BellSouth responded to NOW by letter dated January 26, 2000, in which BellSouth confirmed and agreed to NOW's request for a thirty (30) day extension of the time frame to conduct negotiations under the 1996 Act before arbitration is required. BellSouth also set forth the parties' mutual agreement as to the parameters of the continuing negotiations, including acknowledging that BellSouth had furnished a copy of the proposed interconnection agreement to NOW for review and discussion on January 20, 2000. A copy of the letter is attached hereto as Exhibit "E".

11. Over the course of the next several weeks the parties had several discussions regarding the proposed interconnection agreement. During early February NOW furnished to BellSouth a "red-lined" version of the general terms and conditions of the BellSouth proposed

agreement, unfortunately, the red-lined version did not contain any proposed alternative contract language from NOW. The parties were not able to come to a resolution of their issues, thus, no agreement was reached. On February 22, and February 23, 2000, NOW wrote letters requesting yet another extension of the arbitration window which was to close on February 26, 2000. Copies of both letters from NOW are attached hereto as composite Exhibit "F". On February 23, 2000, during a conference call, BellSouth informed NOW that it was declining to extend the arbitration deadline again. BellSouth believed that it was clear that the parties would not be able to come to resolution of the issues even with another extension. Thus, on February 24, 2000, BellSouth responded by letter to both letters from NOW requesting another extension of the arbitration window. A copy of the letter from BellSouth is attached hereto as Exhibit "G".

## **B. JURISDICTION AND TIMING**

12. Pursuant to Section 252(b)(1) of the 1996 Act, which allows either party to the negotiation to request arbitration, this Authority is empowered to arbitrate any and all unresolved issues regarding NOW's purchase, at wholesale rates, of BellSouth's retail services. BellSouth's Petition is filed with the Authority between the 135<sup>th</sup> and 160<sup>th</sup> day from the date that the negotiations were deemed to have commenced. This Authority must resolve each issue set forth in this Petition not later than nine (9) months after the date on which NOW received the request for negotiation from BellSouth, which, based upon the parties' agreed upon extension of time, is on or before June 20, 2000. As previously noted, the window for filing for arbitration closes on February 26, 2000. Accordingly, this Petition is timely filed.

13. A version of the resale agreement reflecting agreed-upon language and reflecting language which is in dispute and which is the subject of the unresolved issues raised in this

Petition is attached as Exhibit “H”. This version of the agreement shows agreed upon language in normal type font, and language as to which impasse apparently has been reached, has been shaded. In the Statement of Unresolved Issues set forth in this Petition, BellSouth has indicated the appropriate section of the Agreement, which contains language in dispute under the appropriate issue.

14. BellSouth requests the Authority to approve the Resale Agreement between NOW and BellSouth reflecting the agreed upon language in Exhibit “H” and the resolution in this arbitration proceeding of the unresolved issues described below.

### **C. STANDARD OF REVIEW**

15. The Federal Communications Commission (“FCC”) established the appropriate standard for arbitration under Sections 251 and 252 of the 1996 Act in its First Report and Order, *Implementation of the Local Competition provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98 (“First and Report and Order”). Pursuant to the FCC’s First Report and Order, this Authority must ensure that resolution of issues in an arbitration satisfy Section 251 of the 1996 Act, including regulations promulgated by the FCC.

### **D. ISSUES FOR ARBITRATION**

16. Pursuant to Section 252(b)(2) of the 1996 Act, the unresolved issues between NOW and BellSouth, as understood by BellSouth, are provided below as well as the respective positions of the parties on each issue. Although NOW has raised several issues regarding the general terms and conditions of the resale agreement, the primary issue in dispute concerns the

appropriate rates that NOW should pay for access to and use of the electronic and manual interfaces to BellSouth's operations support systems ("OSS").

## ISSUE 1

**Issue:** *Should the terms, conditions and prices ultimately negotiated by the Parties or ordered by the Authority through arbitration for inclusion in a new Agreement be effective retroactive to the day following the expiration of the old Agreement? (GTC section 2.3)*

**BellSouth Position:** Yes. Such a contract provision is necessary to prevent either party from delaying the entry of a new agreement solely to prevent the other party from obtaining the benefits of any new terms and conditions. For example, without such a provision, one party could effectively prevent the other party from timely receiving the benefits of any new rate changes ordered by the Authority.

**NOW Position:** No. NOW takes the position that any new agreement should take effect upon execution of the new agreement without any retroactive effect whatsoever.

## ISSUE 2

**Issue:** *Should there be a cancellation provision in the agreement in the event that the parties are unable to timely negotiate a new agreement or neither party has filed for arbitration? If so, how should the parties continue to conduct business in the event of cancellation by one or both parties? (GTC section 2.4)*

**BellSouth Position:** Yes. BellSouth believes that the agreement should contain a cancellation provision such that upon sixty (60) days advance written notice to the other party the Agreement is terminated to prevent one party from unreasonably continuing the Agreement beyond the expiration date. In the event of such cancellation, BellSouth will agree to continue to offer services to NOW pursuant to the terms, conditions and rates set forth in its Statement of Generally Available Terms and Conditions



("SGAT") approved by the Authority or in its standard resale or interconnection agreement.

**NOW Position:** No. NOW disagrees that this contract provision should be utilized, but rather, believes that all that is needed is language that states in the event of expiration of the agreement, the agreement will automatically convert to a month-to-month agreement under the terms of the agreement without the ability of either party to ever cancel the agreement, with or without reasonable notice.

### ISSUE 3

**Issue:** *What are the appropriate rates to be charged by BellSouth for NOW's access to and use of the electronic and manual interfaces to BellSouth's operations support systems ("OSS") and functions? (GTC section 3.3 and Attachment 1)*

**BellSouth Position:** The 1996 Act and the FCC's rules allow BellSouth to recover costs associated with developing, providing, and maintaining the electronic and manual interfaces that allow CLECs, such as NOW, access to BellSouth's OSS. This Authority previously approved BellSouth's right to recover these costs, and BellSouth is proposing rates for electronic and manual access as previously established by this Authority.

**NOW Position:** NOW disagrees with the level of some of the OSS charges and with certain instances when the OSS charges should be applied to CLECs.

### ISSUE 4

**Issue:** *When BellSouth receives subpoenas or court ordered requests regarding targeted telephone numbers belonging to NOW end users, should BellSouth advise the law enforcement agency initiating the request to redirect the subpoena or court ordered request to NOW? (GTC section 7)*

**BellSouth**

**Position:**

Yes. The party that receives a misdirected subpoena should notify the person or entity that issued the subpoena that the customer whose records are being sought is not that party's customer and identify the appropriate custodian of the requested records.

**NOW Position:**

No. BellSouth should only advise the person or entity that issued the subpoena that BellSouth does not have the requested information and should not identify the appropriate custodian of the requested records.

**ISSUE 5**

**Issue:**

*What limitation of liability language should be included in the Agreement? (GTC section 8)*

**BellSouth**

**Position:**

BellSouth believes that the Agreement should contain appropriate language regarding the parties' respective rights and limitations on liability as well as indemnification consistent with Authority approved tariffs under which BellSouth provides the services that are to be resold.

**NOW Position:**

NOW does not believe that it is appropriate to include language regarding BellSouth's limitation of liability in the Agreement.

**ISSUE 6**

**Issue:**

*What language should the Agreement contain regarding the protection of the intellectual property rights of both parties? (GTC section 9)*

**BellSouth**

**Position:**

BellSouth believes that the Agreement should contain appropriate language regarding the parties' respective rights to intellectual property such as each other's brand names, trademarks, copyrights, etc.

**NOW Position:** NOW's position on this issue is unclear to BellSouth.

## ISSUE 7

**Issue:** *Should the Authority as the entity approving the Agreement retain jurisdiction to resolve all disputes that may arise thereunder? (GTC section 12)*

**BellSouth Position:** BellSouth believes that the Authority has both the jurisdiction and the authority to resolve any complaints and disputes that may arise under the resale agreement. The Authority clearly has jurisdiction over the parties it has certificated as local exchange carriers and it clearly has authority to enforce agreements it has reviewed and approved pursuant to the Telecommunications Act of 1996.

**NOW Position:** NOW disagrees that the Agreement should contain language that complaints and disputes should be resolved by exclusively by the Authority, but wants to include language that the parties may pursue remedies before the courts.

## ISSUE 8

**Issue:** *Should the Agreement clearly set forth the rights and obligations of the parties with respect to tax obligations? (GTC section 13)*

**BellSouth Position:** BellSouth has proposed language for the interconnection agreement based upon BellSouth's experiences with tax matters and liability issues in connection with the parties' obligations under interconnection agreements. A variety of taxes are imposed upon telecommunications carriers, both directly and indirectly (collect from end-users and other carriers). As would be expected, problems and disputes over the application and validity of these taxes will and do occur. The interconnection agreement should clearly define the respective rights and duties for each party in the handling of such tax issues so that they can be resolved fairly and quickly.

**NOW Position:** NOW believes that the Agreement should basically contain language that each party will be responsible for their respective taxes based upon the old Agreement.

## **ISSUE 9**

**Issue:** *What provisions should govern the modification of the Agreement? (GTC section 16)*

**BellSouth Position:** BellSouth believes that the Agreement should contain clear and express language setting forth the terms and conditions that will allow the parties to amend or modify the agreement consistent with all appropriate rules, regulations, and orders of the federal and state agencies as well as the courts.

**NOW Position:** NOW Believes that the Agreement should contain language that provides that any modification or amendment of the Agreement must be based upon language similar to the language contained in the old Agreement and upon the mutual consent of the parties

## **ISSUE 10**

**Issue:** *Should the Agreement reflect that it is a product of negotiation or arbitration and not be construed against either party as the drafting party? (GTC section 21)*

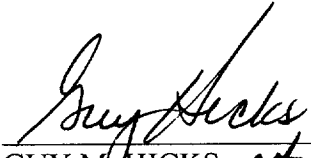
**BellSouth Position:** BellSouth believes that the Agreement should contain language that correctly reflects that the Agreement is the end result of negotiation between the parties and/or arbitration conducted by the Authority and should not be construed against BellSouth as the party who proposed the initial draft of the Agreement as a starting point for negotiation.

**NOW Position:** NOW believes that the Agreement should contain a provision that reflects a general rule of contract construction requiring an interpretation of the contract against the party drafting it even though it is the end product of negotiation and/or arbitration.

### E. CONCLUSION

WHEREFORE, BellSouth respectfully requests that the Authority arbitrate the issues set forth in this Petition and enter an Order directing that BellSouth's position on the issues raised herein be incorporated into the Resale Agreement between NOW and BellSouth. Further, BellSouth requests such other, more general or specific relief as is just and proper under the circumstances.

Respectfully submitted this 25th day of February, 2000.

  
GUY M. HICKS *at by permission*  
333 Commerce Street  
Suite 2101  
Nashville, Tennessee 37201-3300

R. DOUGLAS LACKEY  
THOMAS B. ALEXANDER  
General Attorneys  
Suite 4300, BellSouth Center  
675 West Peachtree Street, N.E.  
Atlanta, GA 30375  
(404) 335-0750

COUNSEL FOR BELL SOUTH  
TELECOMMUNICATIONS, INC.

198846

### CERTIFICATE OF SERVICE

This is to certify that I have served a copy of BellSouth Telecommunications, Inc. Petition for Arbitration on the party listed below by placing a copy of same in the United States Mail, First Class, Postage Prepaid, on this the 25<sup>th</sup> day of February, 2000.

☒ Hand  
☐ Mail  
☐ Facsimile  
☐ Overnight

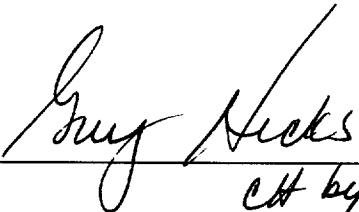
Richard Collier, Esquire  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0500

☐ Hand  
☒ Mail  
☐ Facsimile  
☐ Overnight

NOW, L.L.C.  
Attention: Larry Seab  
713 Country Place Drive  
Jackson, Mississippi 39203

☐ Hand  
☒ Mail  
☐ Facsimile  
☐ Overnight

Carroll H. Ingram, Esq.  
Ingram & Associates, PLLC  
211 South 29<sup>th</sup> Avenue  
Post Office Box 15039  
Hattiesburg, Mississippi 39404-5039

  
att by permission

198846



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**BellSouth Interconnection Services**

675 West Peachtree Street  
Room 34S91  
Atlanta, Georgia 30375

Page Miller  
(404) 927-1377  
Fax: (404) 927-8324

August 20, 1999

Mr. Larry Seab  
President  
NOW Communications, Inc.  
713 Country Place Drive  
Jackson, MS 39208

Dear Mr. Seab:

The purpose of this letter is to initiate renegotiations of the resale agreement between BellSouth and NOW Communications, Inc. as well as to request the execution of an OSS amendment to the current agreement while the parties work together to negotiate the new agreement.

The expiration date for your Agreement was May 31, 1999. BellSouth is hereby requesting that NOW Communications, Inc. commence good-faith negotiations with BellSouth to enter into a new agreement in compliance with Section 251(c)(1) of the Communications Act of 1934, as amended.

In an effort to move the negotiation process along, a copy of the BellSouth Standard Resale Agreement is herein provided for your review. Please note that we have had a number of changes to our standard agreement that may be of interest to your company. Once you have had an opportunity to review the proposed agreement, please contact me with questions. If need be, we will begin scheduling meetings between the companies to address issues raised during your review.

In addition to renegotiating a new agreement, BellSouth also requests that NOW execute the enclosed amendment to add Operational Support System rates to the existing resale agreement. One of the major requirements imposed on BellSouth by the 1996 Telecommunications Act was to develop and implement processes that allow Competitive Local Exchange Carriers (CLECs) to access BellSouth's OSS functions including pre-ordering, ordering, maintenance and repair. Regulatory commissions at both the Federal and State level recognize that BellSouth should be allowed to recover these costs from the users of these processes.

As such, on April 15, 1999, BellSouth began billing OSS charges to CLECs whose agreement included OSS rates for the recovery of costs associated with providing CLECs access to its OSS. To date, you as a CLEC have not paid nor have you been billed for the use of these systems. However, since the various state commissions have ordered OSS rates, it is appropriate that we amend your existing agreement with BellSouth to include these rates. Therefore, attached is an amendment to your current agreement with BellSouth which includes BellSouth's proposed regional OSS rates as shown below.

**EXHIBIT "A"**



\$ 3.50 per LSR received by one of the OSS interactive interfaces  
\$19.99 per LSR received by means other than one of the OSS interactive interfaces.

The proposed regional rates set forth above are billed on a "per LSR" basis. A transitional Threshold Charging Plan is also offered in conjunction with the regional rates. This Threshold Charging Plan provides for the mechanized price to be charged for both mechanized and manual LSRs for CLECs who transmit a significant portion of their LSR volume over a mechanized system. The specific details of this plan are included on the attached amendment.

As another option to CLECs, state specific rates set by the various commissions within the BellSouth region are available. In most cases, the regional rates are lower than state specific rates. In those states where the commission has not yet set rates, BellSouth proposes interim rates, subject to true-up once final rates have been set by the commission.

Please note that the State Commissions in three of the BellSouth states, have ordered OSS rates. In the remaining states, BellSouth is proposing interim rates which are subject to true-up. These interim rates are very much in line with the rates that have already been established in the other three BellSouth states.

Please review this amendment and sign both copies returning them to my attention at the above address. I will have the amendment executed on behalf of BellSouth and return one copy to you for your records. BellSouth will file the amendment with the appropriate regulatory agencies.

If you choose to expedite the signing of a new resale agreement, please contact me at (404) 927-1377 so that I can send you executable copies reflecting your company name throughout the agreement. Of course, if a new agreement is executed quickly, there is no need to sign the enclosed OSS amendment due to the fact that OSS rates would be included in the new resale agreement.

If you have any questions, please do not hesitate to call me.

Sincerely,



Page Miller

Manager - Interconnection Services/Pricing

Enclosures

**Amendment to the Resale Agreement  
by and between BellSouth Telecommunications, Inc.  
and NOW Communications, Inc.**

This Agreement refers to the Resale Agreement ("the Agreement") entered into by NOW Communications, Inc. ("NOW") and BellSouth Telecommunications, Inc. ("BellSouth") on June 1, 1997. This Amendment ("Amendment") is made by and between NOW and BellSouth and shall be deemed effective on the date executed by NOW and BellSouth.

NOW THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, NOW and BellSouth (individually, a "Party" and collectively, the "Parties") hereby covenant and agree as follows:

1. Section III of the Resale Agreement is hereby amended to include the following as Section III. U:

All costs incurred by BellSouth to develop and implement operational interfaces shall be recovered from Reseller who utilize the services. Charges for use of Operational Support Systems (OSS) shall be as set forth in Exhibit A.

2. Exhibit A of is hereby amended to include the following:

<b>OPERATIONAL SUPPORT SYSTEMS (OSS) RATES</b>	<b>Electronic Per LSR received from the CLEC by one of the OSS interactive interfaces</b>	<b>Manual Per LSR received from the CLEC by means other than one of the OSS interactive interfaces</b>
<b>OSS Order Charge</b>	<b>\$3.50</b>	<b>\$19.99</b>

In addition to the OSS charges, applicable discounted service order and related charges apply per the tariff.

3. The Parties agree that NOW will incur the electronic rate for all LSRs, both electronic and manual, if the percentage of electronic LSRs to total LSRs exceeds the threshold percentages shown below:

<b>Year</b>	<b>Ratio: Electronic/Total LSRs</b>
1999	70%
2000	80%
2001	90%

The threshold plan will be discontinued in 2002.

4. The Parties agree that the threshold plan described in Paragraph 3. above may be superceded by an LSR specific process that would apply the electronic LSR rate to only those manual LSRs, which cannot be submitted over a electronic system.

5. The Parties agree that all other provisions of the Agreement, dated June 1, 1997, shall remain in full force and effect.

6. The Parties further agree that either or both of the Parties is authorized to submit this Amendment to the Public Service Commission or other regulatory body having jurisdiction over the subject matter of this Amendment, for approval subject to Section 252(e) of the federal Telecommunications Act of 1996.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their respective duly authorized representatives on the date indicated below.

**NOW Communications, Inc.**

**BellSouth Telecommunications, Inc.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Jerry D. Hendrix  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Senior Director  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## AGREEMENT

**THIS AGREEMENT** is made by and between BellSouth Telecommunications, Inc., (“BellSouth”), a Georgia corporation, and CLEC-1, a \_\_\_\_\_ corporation, and shall be deemed effective as of \_\_\_\_\_. This Agreement may refer to either BellSouth or CLEC-1 or both as a “Party” or “Parties.”

## WITNESSETH

WHEREAS, BellSouth is a local exchange telecommunications company authorized to provide telecommunications services in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee; and

WHEREAS, CLEC-1 is an alternative local exchange telecommunications company (“CLEC”) authorized to provide telecommunications services in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee; and

WHEREAS, the Parties wish to resell BellSouth’s telecommunications services and/or interconnect their facilities, purchase network elements and other services, and exchange traffic specifically for the purposes of fulfilling their obligations pursuant to sections 251 and 252 of the Telecommunications Act of 1996 (“the Act”).

**NOW THEREFORE**, in consideration of the mutual agreements contained herein, BellSouth and CLEC-1 agree as follows:

1. **Purpose**

The Parties agree that the rates, terms and conditions contained within this Agreement, including all Attachments, comply and conform with each Parties’ obligations under sections 251 and 252 of the Act. The resale, access and interconnection obligations contained herein enable CLEC-1 to provide competing telephone exchange service to residential and business subscribers within the territory of BellSouth. The Parties agree that CLEC-1 will not be considered to have offered telecommunications services to the public in any state within BellSouth’s region until such time as it has ordered services for resale or interconnection facilities for the purposes of providing business and/or residential local exchange service to customers.

**2. Term of the Agreement**

- 2.1 The term of this Agreement shall be two years, beginning \_\_\_\_\_ and shall apply to the state(s) of \_\_\_\_\_ and \_\_\_\_\_. If as of the expiration of this Agreement, a Subsequent Agreement (as defined in Section 2.2 below) has not been executed by the Parties, this Agreement shall continue on a month-to-month basis while a Subsequent Agreement is being negotiated. The Parties' rights and obligations with respect to this Agreement after expiration shall be as set forth in Section 2.4 below.
- 2.2 The Parties agree that by no later than one hundred and eighty (180) days prior to the expiration of this Agreement, they shall commence negotiations with regard to the terms, conditions and prices of resale and/or local interconnection to be effective beginning on the expiration date of this Agreement ("Subsequent Agreement").
- 2.3 If, within one hundred and thirty-five (135) days of commencing the negotiation referred to in Section 2.2, above, the Parties are unable to satisfactorily negotiate new resale and/or local interconnection terms, conditions and prices, either Party may petition the Commission to establish appropriate local interconnection and/or resale arrangements pursuant to 47 U.S.C. 252. The Parties agree that, in such event, they shall encourage the Commission to issue its order regarding the appropriate local interconnection and/or resale arrangements no later than the expiration date of this Agreement. The Parties further agree that in the event the Commission does not issue its order prior to the expiration date of this Agreement, or if the Parties continue beyond the expiration date of this Agreement to negotiate the local interconnection and/or resale arrangements without Commission intervention, the terms, conditions and prices ultimately ordered by the Commission, or negotiated by the Parties, will be effective retroactive to the day following the expiration date of this Agreement.
- 2.4 Notwithstanding the foregoing, in the event that as of the date of expiration of this Agreement and conversion of this Agreement to a month-to-month term, the Parties have not entered into a Subsequent Agreement and either no arbitration proceeding has been filed in accordance with Section 2.3 above, or the Parties have not mutually agreed (where permissible) to extend the arbitration window for petitioning the applicable Commission(s) for resolution of those terms upon which the Parties have not agreed, then either Party may terminate this Agreement upon sixty (60) days notice to the other Party. In the event that BellSouth terminates this Agreement as provided above, BellSouth shall continue to offer services to CLEC-1 pursuant to the terms, conditions and rates set forth in BellSouth's Statement of Generally Available Terms (SGAT) to the extent an SGAT has been approved by the applicable Commission(s). If any state Commission has not approved a BellSouth SGAT, then upon BellSouth's

termination of this Agreement as provided herein, BellSouth will continue to provide services to CLEC-1 pursuant to BellSouth's then current standard interconnection agreement. In the event that the SGAT or BellSouth's standard interconnection agreement becomes effective as between the Parties, the Parties may continue to negotiate a Subsequent Agreement, and the terms of such Subsequent Agreement shall be effective retroactive to the day following expiration of this Agreement.

**3. Ordering Procedures**

- 3.1 CLEC-1 shall provide BellSouth its Carrier Identification Code (CIC), Operating Company Number (OCN), Group Access Code (GAC) and Access Customer Name and Address (ACNA) code as applicable prior to placing its first order.
- 3.2 The Parties agree to adhere to the BellSouth Local Interconnection and Facility Based Ordering Guide and Resale Ordering Guide, as appropriate for the services ordered.
- 3.3 CLEC-1 shall pay charges for Operational Support Systems (OSS) as set forth in this Agreement in Attachment 1 and/or in Attachment 2, 3, 5 and 7 as applicable.

**4. Parity**

When CLEC-1 purchases, pursuant to Attachment 1 of this Agreement, telecommunications services from BellSouth for the purposes of resale to end users, BellSouth shall provide said services so that the services are equal in quality, subject to the same conditions, and provided within the same provisioning time intervals that BellSouth provides to its affiliates, subsidiaries and end users. To the extent technically feasible, the quality of a Network Element, as well as the quality of the access to such Network Element provided by BellSouth to CLEC-1 shall be at least equal in quality to that which BellSouth provides to itself. The quality of the interconnection between the networks of BellSouth and the network of CLEC-1 shall be at a level that is equal to that which BellSouth provides itself, a subsidiary, an Affiliate, or any other party. The interconnection facilities shall be designed to meet the same technical criteria and service standards that are used within BellSouth's network and shall extend to a consideration of service quality as perceived by end users and service quality as perceived by CLEC-1.

**5. White Pages Listings**

BellSouth shall provide CLEC-1 and their customers access to white pages directory listings under the following terms:

- 5.1 Listings. BellSouth or its agent will include CLEC-1 residential and business customer listings in the appropriate White Pages (residential and business) or alphabetical directories. Directory listings will make no distinction between CLEC-1 and BellSouth subscribers.
- 5.2 Rates. Subscriber primary listing information in the White Pages shall be provided at no charge to CLEC-1 or its subscribers provided that CLEC-1 provides subscriber listing information to BellSouth at no charge.
- 5.3 Procedures for Submitting CLEC-1 Subscriber Information. BellSouth will provide to CLEC-1 a magnetic tape or computer disk containing the proper format for submitting subscriber listings. CLEC-1 will be required to provide BellSouth with directory listings and daily updates to those listings, including new, changed, and deleted listings, in an industry-accepted format. These procedures are detailed in BellSouth's Local Interconnection and Facility Based Ordering Guide.
- 5.4 Unlisted/Non-Published Subscribers. CLEC-1 will be required to provide to BellSouth the names, addresses and telephone numbers of all CLEC-1 customers that wish to be omitted from directories.
- 5.5 Inclusion of CLEC-1 Customers in Directory Assistance Database. BellSouth will include and maintain CLEC-1 subscriber listings in BellSouth's directory assistance databases at no charge. BellSouth and CLEC-1 will formulate appropriate procedures regarding lead time, timeliness, format and content of listing information.
- 5.6 Listing Information Confidentiality. BellSouth will accord CLEC-1's directory listing information the same level of confidentiality that BellSouth accords its own directory listing information, and BellSouth shall limit access to CLEC-1's customer proprietary confidential directory information to those BellSouth employees who are involved in the preparation of listings.
- 5.7 Optional Listings. Additional listings and optional listings will be offered by BellSouth at tariffed rates as set forth in the General Subscriber Services Tariff.
- 5.8 Delivery. BellSouth or its agent shall deliver White Pages directories to CLEC-1 subscribers at no charge.

**6. Bona Fide Request/New Business Request Process for Further Unbundling**

If CLEC-1 is a facilities based provider or a facilities based and resale provider, this section shall apply. BellSouth shall, upon request of CLEC-1, provide to CLEC-1 access to its network elements at any technically feasible point for the provision of CLEC-1's telecommunications service where such access is necessary and failure to provide access would impair the ability of CLEC-1 to provide services that it seeks to offer. Any request by CLEC-1 for access to a network element, interconnection option, or for the provisioning of any service or product that is not already available shall be treated as a Bona Fide Request/New Business Request, and shall be submitted to BellSouth pursuant to the Bona Fide Request/New Business Request process set forth following.

- 6.1 A Bona Fide Request/New Business Request shall be submitted in writing to CLEC-1's Account Manager by CLEC-1 and shall specifically identify the requested service date, technical requirements, space requirements and/or such specifications that clearly define the request such that BellSouth has sufficient information to analyze and prepare a response. Such a request also shall include a CLEC-1's designation of the request as being (i) pursuant to the Telecommunications Act of 1996 or (ii) pursuant to the needs of the business.

**7. Court Ordered Requests for Call Detail Records and Other Subscriber Information.**

To the extent technically feasible, BellSouth maintains call detail records for CLEC-1 end users for limited time periods and can respond to subpoenas and court ordered requests for this information. BellSouth shall maintain such information for CLEC-1 end users for the same length of time it maintains such information for its own end users.

- 7.1 CLEC-1 agrees that BellSouth will respond to subpoenas and court ordered requests delivered directly to BellSouth for the purpose of providing call detail records when the targeted telephone numbers belong to CLEC-1 end users. Billing for such requests will be generated by BellSouth and directed to the law enforcement agency initiating the request.
- 7.2 CLEC-1 agrees that in cases where CLEC-1 receives subpoenas or court ordered requests for call detail records for targeted telephone numbers belonging to CLEC-1 end users, CLEC-1 will advise the law enforcement agency initiating the request to redirect the subpoena or court ordered request to BellSouth. Billing for call detail information will be generated by BellSouth and directed to the law enforcement agency initiating the request.



- 7.3 In cases where the timing of the response to the law enforcement agency prohibits CLEC-1 from having the subpoena or court ordered request redirected to BellSouth by the law enforcement agency, CLEC-1 will furnish the official request to BellSouth for providing the call detail information. BellSouth will provide the call detail records to CLEC-1 and bill CLEC-1 for the information. CLEC-1 agrees to reimburse BellSouth for the call detail information provided.
- 7.4 CLEC-1 will provide CLEC-1 end user and/or other customer information that is available to CLEC-1 in response to subpoenas and court orders for their own customer records. BellSouth will redirect subpoenas and court ordered requests for CLEC-1 end user and/or other customer information to CLEC-1 for the purpose of providing this information to the law enforcement agency.

**8. Liability and Indemnification**

- 8.1 BellSouth Liability. BellSouth shall take financial responsibility for its own actions in causing, or its lack of action in preventing, unbillable or uncollectible CLEC-1 revenues.
- 8.2 CLEC-1 Liability. In the event that CLEC-1 consists of two (2) or more separate entities as set forth in the preamble to this Agreement, all such entities shall be jointly and severally liable for the obligations of CLEC-1 under this Agreement.
- 8.3 Liability for Acts or Omissions of Third Parties. Neither BellSouth nor CLEC-1 shall be liable for any act or omission of another telecommunications company providing a portion of the services provided under this Agreement.
- 8.4 Limitation of Liability.
- 8.4.1 Each Party's liability to the other for any loss, cost, claim, injury or liability or expense, including reasonable attorney's fees relating to or arising out of any negligent act or omission in its performance of this Agreement whether in contract or in tort, shall be limited to a credit for the actual cost of the services or functions not performed or improperly performed.
- 8.4.2 Limitations in Tariffs. A Party may, in its sole discretion, provide in its tariffs and contracts with its Customer and third parties that relate to any service, product or function provided or contemplated under this Agreement, that to the maximum extent permitted by Applicable Law, such Party shall not be liable to Customer or third Party for (i) any Loss relating to or arising out of this Agreement, whether in contract, tort or otherwise, that exceeds the amount such Party would have charged that applicable person for the service, product or function that gave rise to such Loss and (ii) Consequential Damages. To the extent that a Party elects not to place in its tariffs or contracts such limitations of liability, and the other Party incurs a Loss as a result thereof, such Party shall indemnify and reimburse the

other Party for that portion of the Loss that would have been limited had the first Party included in its tariffs and contracts the limitations of liability that such other Party included in its own tariffs at the time of such Loss.

- 8.4.3 Neither BellSouth nor CLEC-1 shall be liable for damages to the other's terminal location, POI or other company's customers' premises resulting from the furnishing of a service, including, but not limited to, the installation and removal of equipment or associated wiring, except to the extent caused by a company's negligence or willful misconduct or by a company's failure to properly ground a local loop after disconnection.
- 8.4.4 Under no circumstance shall a Party be responsible or liable for indirect, incidental, or consequential damages, including, but not limited to, economic loss or lost business or profits, damages arising from the use or performance of equipment or software, or the loss of use of software or equipment, or accessories attached thereto, delay, error, or loss of data. In connection with this limitation of liability, each Party recognizes that the other Party may, from time to time, provide advice, make recommendations, or supply other analyses related to the Services, or facilities described in this Agreement, and, while each Party shall use diligent efforts in this regard, the Parties acknowledge and agree that this limitation of liability shall apply to provision of such advice, recommendations, and analyses.
- 8.5 Indemnification for Certain Claims. The Party providing services hereunder, its affiliates and its parent company, shall be indemnified, defended and held harmless by the Party receiving services hereunder against any claim, loss or damage arising from the receiving company's use of the services provided under this Agreement pertaining to (1) claims for libel, slander or invasion of privacy arising from the content of the receiving company's own communications, or (2) any claim, loss or damage claimed by the customer of the Party receiving services arising from such company's use or reliance on the providing company's services, actions, duties, or obligations arising out of this Agreement.
- 8.6 Disclaimer. EXCEPT AS SPECIFICALLY PROVIDED TO THE CONTRARY IN THIS AGREEMENT, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES TO THE OTHER PARTY CONCERNING THE SPECIFIC QUALITY OF ANY SERVICES, OR FACILITIES PROVIDED UNDER THIS AGREEMENT. THE PARTIES DISCLAIM, WITHOUT LIMITATION, ANY WARRANTY OR GUARANTEE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR FROM USAGES OF TRADE.

9. **Intellectual Property Rights and Indemnification**

- 9.1 No License. No patent, copyright, trademark or other proprietary right is licensed, granted or otherwise transferred by this Agreement. CLEC-1 is strictly prohibited from any use, including but not limited to in sales, in marketing or advertising of telecommunications services, of any BellSouth name, service mark or trademark.
- 9.2 Ownership of Intellectual Property. Any intellectual property which originates from or is developed by a Party shall remain in the exclusive ownership of that Party. Except for a limited license to use patents or copyrights to the extent necessary for the Parties to use any facilities or equipment (including software) or to receive any service solely as provided under this Agreement, no license in patent, copyright, trademark or trade secret, or other proprietary or intellectual property right now or hereafter owned, controlled or licensable by a Party, is granted to the other Party or shall be implied or arise by estoppel. It is the responsibility of each Party to ensure at no additional cost to the other Party that it has obtained any necessary licenses in relation to intellectual property of third Parties used in its network that may be required to enable the other Party to use any facilities or equipment (including software), to receive any service, or to perform its respective obligations under this Agreement.
- 9.3 Indemnification. The Party providing a service pursuant to this Agreement will defend the Party receiving such service or data provided as a result of such service against claims of infringement arising solely from the use by the receiving Party of such service and will indemnify the receiving Party for any damages awarded based solely on such claims in accordance with Section 8 of this Agreement.
- 9.4 Claim of Infringement. In the event that use of any facilities or equipment (including software), becomes, or in reasonable judgment of the Party who owns the affected network is likely to become, the subject of a claim, action, suit, or proceeding based on intellectual property infringement, then said Party shall promptly and at its sole expense, but subject to the limitations of liability set forth below:
- 9.4.1 modify or replace the applicable facilities or equipment (including software) while maintaining form and function, or
- 9.4.2 obtain a license sufficient to allow such use to continue.
- 9.4.3 In the event 9.4.1 or 9.4.2 are commercially unreasonable, then said Party may, terminate, upon reasonable notice, this contract with respect to use of, or services provided through use of, the affected facilities or equipment (including software), but solely to the extent required to avoid the infringement claim.
- 9.5 Exception to Obligations. Neither Party's obligations under this Section shall apply to the extent the infringement is caused by: (i) modification of the facilities or equipment (including software) by the indemnitee; (ii) use by the indemnitee of

the facilities or equipment (including software) in combination with equipment or facilities (including software) not provided or authorized by the indemnitor provided the facilities or equipment (including software) would not be infringing if used alone; (iii) conformance to specifications of the indemnitee which would necessarily result in infringement; or (iv) continued use by the indemnitee of the affected facilities or equipment (including software) after being placed on notice to discontinue use as set forth herein.

- 9.6 Exclusive Remedy. The foregoing shall constitute the Parties' sole and exclusive remedies and obligations with respect to a third party claim of intellectual property infringement arising out of the conduct of business under this Agreement.

10. **Treatment of Proprietary and Confidential Information**

- 10.1 Confidential Information. It may be necessary for BellSouth and CLEC-1 to provide each other with certain confidential information, including trade secret information, including but not limited to, technical and business plans, technical information, proposals, specifications, drawings, procedures, customer account data, call detail records and like information (hereinafter collectively referred to as "Information"). All Information shall be in writing or other tangible form and clearly marked with a confidential, private or proprietary legend and that the Information will be returned to the owner within a reasonable time. The Information shall not be copied or reproduced in any form. BellSouth and CLEC-1 shall receive such Information and not disclose such Information. BellSouth and CLEC-1 shall protect the Information received from distribution, disclosure or dissemination to anyone except employees of BellSouth and CLEC-1 with a need to know such Information and which employees agree to be bound by the terms of this Section. BellSouth and CLEC-1 will use the same standard of care to protect Information received as they would use to protect their own confidential and proprietary Information.

- 10.2 Exception to Obligation. Notwithstanding the foregoing, there will be no obligation on BellSouth or CLEC-1 to protect any portion of the Information that is: (1) made publicly available by the owner of the Information or lawfully disclosed by a Party other than BellSouth or CLEC-1; (2) lawfully obtained from any source other than the owner of the Information; or (3) previously known to the receiving Party without an obligation to keep it confidential.

**11. Assignments**

Any assignment by either Party to any non-affiliated entity of any right, obligation or duty, or of any other interest hereunder, in whole or in part, without the prior written consent of the other Party shall be void. A Party may assign this Agreement or any right, obligation, duty or other interest hereunder to an Affiliate company of the Party without the consent of the other Party. All obligations and duties of any Party under this Agreement shall be binding on all successors in interest and assigns of such Party. No assignment or delegation hereof shall relieve the assignor of its obligations under this Agreement in the event that the assignee fails to perform such obligations.

**12. Resolution of Disputes**

Except as otherwise stated in this Agreement, the Parties agree that if any dispute arises as to the interpretation of any provision of this Agreement or as to the proper implementation of this Agreement, either Party may petition the Commission for a resolution of the dispute. However, each Party reserves any rights it may have to seek judicial review of any ruling made by the Commission concerning this Agreement.

**13. Taxes**

13.1 Definition. For purposes of this Section, the terms “taxes” and “fees” shall include but not limited to federal, state or local sales, use, excise, gross receipts or other taxes or tax-like fees of whatever nature and however designated (including tariff surcharges and any fees, charges or other payments, contractual or otherwise, for the use of public streets or rights of way, whether designated as franchise fees or otherwise) imposed, or sought to be imposed, on or with respect to the services furnished hereunder or measured by the charges or payments therefore, excluding any taxes levied on income.

13.2 Taxes and Fees Imposed Directly On Either Providing Party or Purchasing Party.

13.2.1 Taxes and fees imposed on the providing Party, which are not permitted or required to be passed on by the providing Party to its customer, shall be borne and paid by the providing Party.

13.2.2 Taxes and fees imposed on the purchasing Party, which are not required to be collected and/or remitted by the providing Party, shall be borne and paid by the purchasing Party.

13.3 Taxes and Fees Imposed on Purchasing Party But Collected And Remitted By Providing Party.

- 13.3.1 Taxes and fees imposed on the purchasing Party shall be borne by the purchasing Party, even if the obligation to collect and/or remit such taxes or fees is placed on the providing Party.
- 13.3.2 To the extent permitted by applicable law, any such taxes and/or fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing Party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing Party at the time that the respective service is billed.
- 13.3.3 If the purchasing Party determines that in its opinion any such taxes or fees are not payable, the providing Party shall not bill such taxes or fees to the purchasing Party if the purchasing Party provides written certification, reasonably satisfactory to the providing Party, stating that it is exempt or otherwise not subject to the tax or fee, setting forth the basis therefor, and satisfying any other requirements under applicable law. If any authority seeks to collect any such tax or fee that the purchasing Party has determined and certified not to be payable, or any such tax or fee that was not billed by the providing Party, the purchasing Party may contest the same in good faith, at its own expense. In any such contest, the purchasing Party shall promptly furnish the providing Party with copies of all filings in any proceeding, protest, or legal challenge, all rulings issued in connection therewith, and all correspondence between the purchasing Party and the taxing authority.
- 13.3.4 In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing Party during the pendency of such contest, the purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.
- 13.3.5 If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing Party shall pay such additional amount, including any interest and penalties thereon.
- 13.3.6 Notwithstanding any provision to the contrary, the purchasing Party shall protect, indemnify and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any such tax or fee, interest or penalties thereon, or other charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the providing Party in connection with any claim for or contest of any such tax or fee.
- 13.3.7 Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a taxing authority; such notice to be provided, if possible, at least ten (10) days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) days after receipt of such assessment, proposed assessment or claim.

- 13.4 Taxes and Fees Imposed on Providing Party But Passed On To Purchasing Party.
- 13.4.1 Taxes and fees imposed on the providing Party, which are permitted or required to be passed on by the providing Party to its customer, shall be borne by the purchasing Party.
- 13.4.2 To the extent permitted by applicable law, any such taxes and/or fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing Party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing Party at the time that the respective service is billed.
- 13.4.3 If the purchasing Party disagrees with the providing Party's determination as to the application or basis for any such tax or fee, the Parties shall consult with respect to the imposition and billing of such tax or fee. Notwithstanding the foregoing, the providing Party shall retain ultimate responsibility for determining whether and to what extent any such taxes or fees are applicable, and the purchasing Party shall abide by such determination and pay such taxes or fees to the providing Party. The providing Party shall further retain ultimate responsibility for determining whether and how to contest the imposition of such taxes and fees; provided, however, that any such contest undertaken at the request of the purchasing Party shall be at the purchasing Party's expense.
- 13.4.4 In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing Party during the pendency of such contest, the purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.
- 13.4.5 If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing Party shall pay such additional amount, including any interest and penalties thereon.
- 13.4.6 Notwithstanding any provision to the contrary, the purchasing Party shall protect indemnify and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any such tax or fee, interest or penalties thereon, or other reasonable charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the providing Party in connection with any claim for or contest of any such tax or fee.
- 13.4.7 Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a taxing authority; such notice to be provided, if possible, at least ten (10) days prior to the date by which a response, protest or other appeal must be filed, but in

no event later than thirty (30) days after receipt of such assessment, proposed assessment or claim.

- 13.5 Mutual Cooperation. In any contest of a tax or fee by one Party, the other Party shall cooperate fully by providing records, testimony and such additional information or assistance as may reasonably be necessary to pursue the contest. Further, the other Party shall be reimbursed for any reasonable and necessary out-of-pocket copying and travel expenses incurred in assisting in such contest.

14. Force Majeure

In the event performance of this Agreement, or any obligation hereunder, is either directly or indirectly prevented, restricted, or interfered with by reason of fire, flood, earthquake or like acts of God, wars, revolution, civil commotion, explosion, acts of public enemy, embargo, acts of the government in its sovereign capacity, labor difficulties, including without limitation, strikes, slowdowns, picketing, or boycotts, unavailability of equipment from vendor, changes requested by Customer, or any other circumstances beyond the reasonable control and without the fault or negligence of the Party affected, the Party affected, upon giving prompt notice to the other Party, shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction, or interference (and the other Party shall likewise be excused from performance of its obligations on a day-to-day basis until the delay, restriction or interference has ceased); provided however, that the Party so affected shall use diligent efforts to avoid or remove such causes of non-performance and both Parties shall proceed whenever such causes are removed or cease.

15. Year 2000 Compliance

Each Party warrants that it has implemented a program the goal of which is to ensure that all software, hardware and related materials (collectively called "Systems") delivered, connected with BellSouth or supplied in the furtherance of the terms and conditions specified in this Agreement: (i) will record, store, process and display calendar dates falling on or after January 1, 2000, in the same manner, and with the same functionality as such software records, stores, processes and calendar dates falling on or before December 31, 1999; and (ii) shall include without limitation date data century recognition, calculations that accommodate same century and multicentury formulas and date values, and date data interface values that reflect the century.

16. Modification of Agreement

- 16.1 BellSouth shall make available, pursuant to 47 USC § 252 and the FCC rules and regulations regarding such availability, to CLEC-1 any interconnection, service, or network element provided under any other agreement filed and approved pursuant to 47 USC § 252. The Parties shall adopt all rates, terms and conditions concerning



such other interconnection, service or network element and any other rates, terms and conditions that are interrelated or were negotiated in exchange for or in conjunction with the interconnection, service or network element being adopted. The adopted interconnection, service, or network element and agreement shall apply to the same states as such other agreement and for the identical term of such other agreement.

- 16.2 If CLEC-1 changes its name or makes changes to its company structure or identity due to a merger, acquisition, transfer or any other reason, it is the responsibility of CLEC-1 to notify BellSouth of said change and request that an amendment to this Agreement, if necessary, be executed to reflect said change.
- 16.3 No modification, amendment, supplement to, or waiver of the Agreement or any of its provisions shall be effective and binding upon the Parties unless it is made in writing and duly signed by the Parties.
- 16.4 Execution of this Agreement by either Party does not confirm or infer that the executing Party agrees with any decision(s) issued pursuant to the Telecommunications Act of 1996 and the consequences of those decisions on specific language in this Agreement. Neither Party waives its rights to appeal or otherwise challenge any such decision(s) and each Party reserves all of its rights to pursue any and all legal and/or equitable remedies, including appeals of any such decision(s).
- 16.5 In the event that any final and nonappealable legislative, regulatory, judicial or other legal action materially affects any material terms of this Agreement, or the ability of CLEC-1 or BellSouth to perform any material terms of this Agreement, CLEC-1 or BellSouth may, on thirty (30) days' written notice require that such terms be renegotiated, and the Parties shall renegotiate in good faith such mutually acceptable new terms as may be required. In the event that such new terms are not renegotiated within ninety (90) days after such notice, the Dispute shall be referred to the Dispute Resolution procedure set forth in Section 12.
- 16.6 If any provision of this Agreement, or the application of such provision to either Party or circumstance, shall be held invalid, the remainder of the Agreement, or the application of any such provision to the Parties or circumstances other than those to which it is held invalid, shall not be effective thereby, provided that the Parties shall attempt to reformulate such invalid provision to give effect to such portions thereof as may be valid without defeating the intent of such provision.

**17. Waivers**

A failure or delay of either Party to enforce any of the provisions hereof, to exercise any option which is herein provided, or to require performance of any of the provisions hereof shall in no way be construed to be a waiver of such provisions or options, and each Party, notwithstanding such failure, shall have the right thereafter

to insist upon the specific performance of any and all of the provisions of this Agreement.

18. **Governing Law**

This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Georgia, without regard to its conflict of laws principles.

19. **Arm's Length Negotiations**

This Agreement was executed after arm's length negotiations between the undersigned Parties and reflects the conclusion of the undersigned that this Agreement is in the best interests of all Parties.

20. **Notices**

- 20.1 Every notice, consent, approval, or other communications required or contemplated by this Agreement shall be in writing and shall be delivered in person or given by postage prepaid mail, address to:

**BellSouth Telecommunications, Inc.**

CLEC Account Team  
9<sup>th</sup> Floor  
600 North 19<sup>th</sup> Street  
Birmingham, Alabama 35203

and

General Attorney - COU  
Suite 4300  
675 W. Peachtree St.  
Atlanta, GA 30375

**CLEC-1**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

or at such other address as the intended recipient previously shall have designated by written notice to the other Party.

- 20.2 Where specifically required, notices shall be by certified or registered mail. Unless otherwise provided in this Agreement, notice by mail shall be effective on

the date it is officially recorded as delivered by return receipt or equivalent, and in the absence of such record of delivery, it shall be presumed to have been delivered the fifth day, or next business day after the fifth day, after it was deposited in the mails.

- 20.3 BellSouth shall provide CLEC-1 notice via Internet posting of price changes and of changes to the terms and conditions of services available for resale.

21. **Rule of Construction**

No rule of construction requiring interpretation against the drafting Party hereof shall apply in the interpretation of this Agreement.

22. **Headings of No Force or Effect**

The headings of Articles and Sections of this Agreement are for convenience of reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this Agreement.

23. **Multiple Counterparts**

This Agreement may be executed multiple counterparts, each of which shall be deemed an original, but all of which shall together constitute but one and the same document.

24. **Implementation of Agreement**

If CLEC-1 is a facilities based provider or a facilities based and resale provider, this section shall apply. Within 60 days of the execution of this Agreement, the Parties will adopt a schedule for the implementation of the Agreement. The schedule shall state with specificity time frames for submission of including but not limited to, network design, interconnection points, collocation arrangement requests, pre-sales testing and full operational time frames for the business and residential markets. An implementation template to be used for the implementation schedule is contained in Attachment 10 of this Agreement.

25. **Filing of Agreement**

Upon execution of this Agreement it shall be filed with the appropriate state regulatory agency pursuant to the requirements of Section 252 of the Act. If the regulatory agency imposes any filing or public interest notice fees regarding the filing or approval of the Agreement, CLEC-1 shall be responsible for publishing the required notice and the publication and/or notice costs shall be borne by CLEC-1.

26. **Entire Agreement**

This Agreement and its Attachments, incorporated herein by this reference, sets forth the entire understanding and supersedes prior Agreements between the Parties relating to the subject matter contained herein and merges all prior discussions between them, and neither Party shall be bound by any definition, condition, provision, representation, warranty, covenant or promise other than as expressly stated in this Agreement or as is contemporaneously or subsequently set forth in writing and executed by a duly authorized officer or representative of the Party to be bound thereby.

**This Agreement may include attachments with provisions for the following services:**

Network Elements and Other Services  
Local Interconnection  
Resale  
Collocation

**The following services are included as options for purchase by CLEC-1. CLEC-1 shall elect said services by written request to its Account Manager if applicable.**

Optional Daily Usage File (ODUF)  
Enhanced Optional Daily Usage File (EODUF)  
Access Daily Usage File (ADUF)  
Line Information Database (LIDB) Storage  
Centralized Message Distribution Service (CMDS)  
Calling Name (CNAM)

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year above first written.

**BellSouth Telecommunications, Inc.**

**CLEC-1**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## Definitions

**Affiliate** is defined as a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term “own” means to own an equity interest (or equivalent thereof) of more than 10 percent.

**Centralized Message Distribution System** is the Telcordia (formerly BellCore) administered national system, based in Kansas City, Missouri, used to exchange Exchange Message Interface (EMI) formatted data among host companies.

**Commission** is defined as the appropriate regulatory agency in each of BellSouth’s nine state region, Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.

**Daily Usage File** is the compilation of messages or copies of messages in standard Exchange Message Interface (EMI) format exchanged from BellSouth to an CLEC.

**Exchange Message Interface** is the nationally administered standard format for the exchange of data among the Exchange Carriers within the telecommunications industry.

**Information Service** means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

**Intercompany Settlements (ICS)** is the revenue associated with charges billed by a company other than the company in whose service area such charges were incurred. ICS on a national level includes third number and credit card calls and is administered by Telcordia (formerly BellCore)’s Calling Card and Third Number Settlement System (CATS). Includes traffic that originates in one Regional Bell Operating Company’s (RBOC) territory and bills in another RBOC’s territory.

**Intermediary function** is defined as the delivery of traffic from CLEC-1; a CLEC other than CLEC-1 or another telecommunications carrier through the network of BellSouth or CLEC-1 to an end user of CLEC-1; a CLEC other than CLEC-1 or another telecommunications carrier.

**Local Interconnection** is defined as 1) the delivery of local traffic to be terminated on each Party’s local network so that end users of either Party have the ability to reach end users of the other Party without the use of any access code or substantial delay in the processing of the call; 2) the LEC network features, functions, and capabilities set forth in this Agreement; and 3) Service Provider Number Portability sometimes referred to as temporary telephone number portability to be implemented pursuant to the terms of this Agreement.

**Local Traffic** is defined as any telephone call that originates in one exchange and terminates in either the same exchange, or other local calling area associated with the originating exchange as defined and specified in Section A3 of BellSouth's General Subscriber Service Tariff. As clarification of this definition and for reciprocal compensation, Local Traffic does not include traffic that originates from or terminates to or through an enhanced service provider or information service provider. As further clarification, Local Traffic does not include calls that do not transmit information of the user's choosing. In any event, neither Party will pay reciprocal compensation to the other if the "traffic" to which such reciprocal compensation would otherwise apply was generated, in whole or in part, for the purpose of creating an obligation on the part of the originating carrier to pay reciprocal compensation for such traffic.

**Message Distribution** is routing determination and subsequent delivery of message data from one company to another. Also included is the interface function with CMDS, where appropriate.

**Multiple Exchange Carrier Access Billing ("MECAB")** means the document prepared by the Billing Committee of the Ordering and Billing Forum ("OBF"), which functions under the auspices of the Carrier Liaison Committee of the Alliance for Telecommunications Industry Solutions ("ATIS") and by Telcordia (formerly BellCore) as Special Report SR-BDS-000983, Containing the recommended guidelines for the billing of Exchange Service access provided by two or more LECs and/or CLECs or by one LEC in two or more states within a single LATA.

**Network Element** is defined to mean a facility or equipment used in the provision of a telecommunications service. Such term may include, but is not limited to, features, functions, and capabilities that are provided by means of such facility or equipment, including but not limited to, subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service. BellSouth offers access to the Network Elements, unbundled loops; network interface device; sub-loop elements; local switching; transport; tandem switching; operator systems; signaling; access to call-related databases; dark fiber as set forth in Attachment 2 of this Agreement.

**Non-Intercompany Settlement System (NICS)** is the Telcordia (formerly BellCore) system that calculates non-intercompany settlements amounts due from one company to another within the same RBOC region. It includes credit card, third number and collect messages.

**Percent of Interstate Usage (PIU)** is defined as a factor to be applied to terminating access services minutes of use to obtain those minutes that should be rated as interstate access services minutes of use. The numerator includes all interstate "non-intermediary" minutes of use, including interstate minutes of use that are forwarded due to service provider number portability less any interstate minutes of use for Terminating Party Pays services, such as 800 Services. The denominator includes all "non-intermediary", local, interstate, intrastate, toll and access minutes of use adjusted for service provider number portability less all minutes attributable to terminating Party pays services.

**Percent Local Usage (PLU)** is defined as a factor to be applied to intrastate terminating minutes of use. The numerator shall include all “non-intermediary” local minutes of use adjusted for those minutes of use that only apply local due to Service Provider Number Portability. The denominator is the total intrastate minutes of use including local, intrastate toll, and access, adjusted for Service Provider Number Portability less intrastate terminating Party pays minutes of use.

**Revenue Accounting Office (RAO) Status Company** is a local exchange company/alternate local exchange company that has been assigned a unique RAO code. Message data exchanged among RAO status companies is grouped (i.e. packed) according to From/To/Bill RAO combinations.

**Service Control Points (“SCPs”)** are defined as databases that store information and have the ability to manipulate data required to offer particular services.

**Signal Transfer Points (“STPs”)** are signaling message switches that interconnect Signaling Links to route signaling messages between switches and databases. STPs enable the exchange of Signaling System 7 (“SS7”) messages between switching elements, database elements and STPs. STPs provide access to various BellSouth and third party network elements such as local switching and databases.

**Signaling links** are dedicated transmission paths carrying signaling messages between carrier switches and signaling networks. Signal Link Transport is a set of two or four dedicated 56 kbps transmission paths between CLEC-1 designated Signaling Points of Interconnection that provide a diverse transmission path and cross connect to a BellSouth Signal Transfer Point.

**Telecommunications** means the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.

**Telecommunications Service** means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

**Telecommunications Act of 1996 (“Act”)** means Public Law 104-104 of the United States Congress effective February 8, 1996. The Act amended the Communications Act of 1934 (47, U.S.C. Section 1 et. seq.).

**Attachment 1**

**Resale**



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## RESALE

**The rates, terms and conditions contained within this Attachment were negotiated as a whole and each rate, term and condition within the Attachment is interdependent upon the other rates, terms and conditions.**

### 1 Discount Rates

The rates pursuant by which CLEC-1 is to purchase services from BellSouth for resale shall be at a discount rate off of the retail rate for the telecommunications service. The discount rates shall be as set forth in Exhibit A, attached hereto and incorporated herein by this reference. Such discount shall reflect the costs avoided by BellSouth when selling a service for wholesale purposes.

### 2 Definition of Terms

- 2.1 CUSTOMER OF RECORD means the entity responsible for placing application for service; requesting additions, rearrangements, maintenance or discontinuance of service; payment in full of charges incurred such as non-recurring, monthly recurring, toll, directory assistance, etc.
- 2.2 DEPOSIT means assurance provided by a customer in the form of cash, surety bond or bank letter of credit to be held by BellSouth.
- 2.3 END USER means the ultimate user of the telecommunications services.
- 2.4 END USER CUSTOMER LOCATION means the physical location of the premises where an end user makes use of the telecommunications services.
- 2.5 NEW SERVICES means functions, features or capabilities that are not currently offered by BellSouth. This includes packaging of existing services or combining a new function, feature or capability with an existing service.
- 2.6 OTHER/COMPETITIVE LOCAL EXCHANGE COMPANY (OLEC/CLEC) means a telephone company certificated by the public service commissions of BellSouth's franchised area to provide local exchange service within BellSouth's franchised area.
- 2.7 RESALE means an activity wherein a certificated CLEC, such as CLEC-1 subscribes to the telecommunications services of BellSouth and then reoffers those telecommunications services to the public (with or without "adding value").
- 2.8 RESALE SERVICE AREA means the area, as defined in a public service commission approved certificate of operation, within which an CLEC, such as CLEC-1, may offer resold local exchange telecommunications service.

**3 General Provisions**

- 3.1 CLEC-1 may resell the tariffed local exchange and toll telecommunications services of BellSouth contained in the General Subscriber Service Tariff and Private Line Service Tariff subject to the terms, and conditions specifically set forth herein. Notwithstanding the foregoing, the exclusions and limitations on services available for resale will be as set forth in Exhibit B, attached hereto and incorporated herein by this reference.

BellSouth shall make available telecommunications services for resale at the rates set forth in Exhibit A to this Agreement and subject to the exclusions and limitations set forth in Exhibit B to this Agreement. BellSouth does not however waive its rights to appeal or otherwise challenge any decision regarding resale that resulted in the discount rates contained in Exhibit A or the exclusions and limitations contained in Exhibit B. BellSouth reserves the right to pursue any and all legal and/or equitable remedies, including appeals of any decisions. If such appeals or challenges result in changes in the discount rates or exclusions and limitations, the parties agree that appropriate modifications to this Agreement will be made promptly to make its terms consistent with the outcome of the appeal.

- 3.2 CLEC-1 may purchase resale services from BellSouth for their own use in operating their business. The resale discount will apply to those services under the following conditions:
- 3.2.1 CLEC-1 must resell services to other end users.
  - 3.2.2 CLEC-1 must order services through resale interfaces, i. e., the Local Carrier Service Center (LCSC) and/or appropriate Resale Account Teams pursuant to Section 3 of the General Terms and Conditions.
  - 3.2.3 CLEC-1 cannot be an alternative local exchange telecommunications company for the single purpose of selling to themselves.
- 3.3 The provision of services by BellSouth to CLEC-1 does not constitute a joint undertaking for the furnishing of any service.
- 3.4 CLEC-1 will be the customer of record for all services purchased from BellSouth. Except as specified herein, BellSouth will take orders from, bill and expect payment from CLEC-1 for all services.
- 3.5 CLEC-1 will be BellSouth's single point of contact for all services purchased pursuant to this Agreement. BellSouth shall have no contact with the end user except to the extent provided for herein.
- 3.6 BellSouth will continue to bill the end user for any services that the end user specifies it wishes to receive directly from BellSouth.
- 3.7 BellSouth maintains the right to serve directly any end user within the service area of CLEC-1. BellSouth will continue to directly market its own telecommunications products and services and in doing so may establish independent relationships with end users of CLEC-1.
- 3.8 Neither Party shall interfere with the right of any person or entity to obtain service directly from the other Party.

- 3.9 Current telephone numbers may normally be retained by the end user. However, telephone numbers are the property of BellSouth and are assigned to the service furnished. CLEC-1 has no property right to the telephone number or any other call number designation associated with services furnished by BellSouth, and no right to the continuance of service through any particular central office. BellSouth reserves the right to change such numbers, or the central office designation associated with such numbers, or both, whenever BellSouth deems it necessary to do so in the conduct of its business.
- 3.10 For the purpose of the resale of BellSouth's telecommunications services by CLEC-1, BellSouth will provide CLEC-1 with an on line access to telephone numbers for reservation on a first come first serve basis. Such reservations of telephone numbers, on a pre-ordering basis shall be for a period of nine (9) days. CLEC-1 acknowledges that there may be instances where there is a shortage of telephone numbers in a particular Common Language Location Identifier Code (CLLIC) and in such instances BellSouth may request that CLEC-1 cancel its reservations of numbers. CLEC-1 shall comply with such request.
- Further, upon CLEC-1's request, and for the purpose of the resale of BellSouth's telecommunications services by CLEC-1, BellSouth will reserve up to 100 telephone numbers per CLLIC, for CLEC-1's sole use. Such telephone number reservations shall be valid for ninety (90) days from the reservation date. CLEC-1 acknowledges that there may be instances where there is a shortage of telephone numbers in a particular CLLIC and in such instances BellSouth shall use its best efforts to reserve for a ninety (90) day period a sufficient quantity of CLEC-1's reasonable need in that particular CLLIC.
- 3.11 BellSouth may provide any service or facility for which a charge is not established herein, as long as it is offered on the same terms to CLEC-1.
- 3.12 Service is furnished subject to the condition that it will not be used for any unlawful purpose.
- 3.13 Service will be discontinued if any law enforcement agency advises that the service being used is in violation of the law.
- 3.14 BellSouth can refuse service when it has grounds to believe that service will be used in violation of the law.
- 3.15 BellSouth accepts no responsibility to any person for any unlawful act committed by CLEC-1 or its end users as part of providing service to CLEC-1 for purposes of resale or otherwise.
- 3.16 BellSouth will cooperate fully with law enforcement agencies with subpoenas and court orders for assistance with BellSouth's end users. Law enforcement agency subpoenas and court orders regarding end users of CLEC-1 will be directed to CLEC-1. BellSouth will bill CLEC-1 for implementing any requests by law enforcement agencies regarding CLEC-1 end users.
- 3.17 The characteristics and methods of operation of any circuits, facilities or equipment provided by any person or entity other than BellSouth shall not:
- 3.17.1 Interfere with or impair service over any facilities of BellSouth, its affiliates, or its connecting and concurring carriers involved in its service;
  - 3.17.2 Cause damage to BellSouth's plant;
  - 3.17.3 Impair the privacy of any communications; or

- 3.17.4 Create hazards to any BellSouth employees or the public.
- 3.18 CLEC-1 assumes the responsibility of notifying BellSouth regarding less than standard operations with respect to services provided by CLEC-1.
- 3.19 Facilities and/or equipment utilized by BellSouth to provide service to CLEC-1 remain the property of BellSouth.
- 3.20 White page directory listings will be provided in accordance with regulations set forth in Section A6 of the General Subscriber Services Tariff and will be available for resale.
- 3.21 BellSouth provides electronic access to customer record information. Access is provided through the Local Exchange Navigation System (LENS) and the Telecommunications Access Gateway (TAG). Customer Record Information includes but is not limited to, customer specific information in CRIS and RSAG. CLEC-1 agrees not to view, copy, or otherwise obtain access to the customer record information of any customer without that customer's permission, and further agrees that CLEC-1 will obtain access to customer record information only in strict compliance with applicable laws, rules, or regulations of the State in which the service is provided.
- 3.22 All costs incurred by BellSouth to develop and implement operational interfaces shall be recovered from Resellers who utilize the services. Charges for use of Operational Support Systems (OSS) shall be as set forth in Exhibit A of this attachment.
- 3.23 Where available to BellSouth's end users, BellSouth shall provide the following telecommunications services at a discount to allow for voice mail services:
- Simplified Message Desk Interface - Enhanced ("SMDI-E")
  - Simplified Message Desk Interface ("SMDI") Message Waiting Indicator ("MWI") stutter dialtone and message waiting light feature capabilities
  - Call Forward on Busy/Don't Answer ("CF-B/DA")
  - Call Forward on Busy ("CF/B")
  - Call Forward Don't Answer ("CF/DA")
- Further, BellSouth messaging services set forth in BellSouth's Messaging Service Information Package shall be made available for resale without the wholesale discount.
- 3.24 BellSouth's Inside Wire Maintenance Service Plans may be made available for resale at rates, terms and conditions as set forth by BellSouth and without the wholesale discount.
- 3.25 All costs incurred by BellSouth for providing services requested by CLEC-1 that are not covered in the BellSouth tariffs shall be recovered from the CLEC-1(s) who utilize those services.
- 3.26 Recovery of charges associated with implementing Number Portability through monthly charges assessed to end users has been authorized by the FCC. This end user line charge will be billed to Resellers of BellSouth's telecommunications services and will be as filed in FCC No. 1. This charge will not be discounted.

**4 BellSouth's Provision of Services to CLEC-1**

- 4.1 CLEC-1 agrees that its resale of BellSouth services shall be as follows:
  - 4.1.1 The resale of telecommunications services shall be limited to users and uses conforming to the class of service restrictions.
  - 4.1.2 Hotel and Hospital PBX services are the only telecommunications services available for resale to Hotel/Motel and Hospital end users, respectively. Similarly, Access Line Service for Customer Provided Coin Telephones is the only local service available for resale to Independent Payphone Provider (IPP) customers. Shared Tenant Service customers can only be sold those local exchange access services available in BellSouth's A23 Shared Tenant Service Tariff in the states of Florida, Georgia, North Carolina and South Carolina, and in A27 in the states of Alabama, Kentucky, Louisiana, Mississippi and Tennessee.
  - 4.1.3 BellSouth reserves the right to periodically audit services purchased by CLEC-1 to establish authenticity of use. Such audit shall not occur more than once in a calendar year. CLEC-1 shall make any and all records and data available to BellSouth or BellSouth's auditors on a reasonable basis. BellSouth shall bear the cost of said audit.
- 4.2 Resold services can only be used in the same manner as specified in BellSouth's Tariffs. Resold services are subject to the same terms and conditions as are specified for such services when furnished to an individual end user of BellSouth in the appropriate section of BellSouth's Tariffs. Specific tariff features, e.g. a usage allowance per month, shall not be aggregated across multiple resold services.
- 4.3 CLEC-1 may resell services only within the specific resale service area as defined in its certificate.
- 4.4 Telephone numbers transmitted via any resold service feature are intended solely for the use of the end user of the feature. Resale of this information is prohibited.

**5 Maintenance of Services**

- 5.1 CLEC-1 will adopt and adhere to the standards contained in the applicable CLEC Work Center Operational Understanding Agreement regarding maintenance and installation of service.
- 5.2 Services resold under BellSouth's Tariffs and facilities and equipment provided by BellSouth shall be maintained by BellSouth.
- 5.3 CLEC-1 or its end users may not rearrange, move, disconnect, remove or attempt to repair any facilities owned by BellSouth, other than by connection or disconnection to any interface means used, except with the written consent of BellSouth.
- 5.4 CLEC-1 accepts responsibility to notify BellSouth of situations that arise that may result in a service problem.
- 5.5 CLEC-1 will be BellSouth's single point of contact for all repair calls on behalf of CLEC-1's end users. The parties agree to provide one another with toll-free contact numbers for such purposes.
- 5.6 CLEC-1 will contact the appropriate repair centers in accordance with procedures established by BellSouth.

- 5.7 For all repair requests, CLEC-1 accepts responsibility for adhering to BellSouth's prescreening guidelines prior to referring the trouble to BellSouth.
  - 5.8 BellSouth will bill CLEC-1 for handling troubles that are found not to be in BellSouth's network pursuant to its standard time and material charges. The standard time and material charges will be no more than what BellSouth charges to its retail customers for the same services.
  - 5.9 BellSouth reserves the right to contact CLEC-1's end users, if deemed necessary, for maintenance purposes.
- 6 Establishment of Service**
- 6.1 After receiving certification as a local exchange company from the appropriate regulatory agency, CLEC-1 will provide the appropriate BellSouth service center the necessary documentation to enable BellSouth to establish a master account for CLEC-1's resold services. Such documentation shall include the Application for Master Account, proof of authority to provide telecommunications services, an Operating Company Number ("OCN") assigned by the National Exchange Carriers Association ("NECA") and a tax exemption certificate, if applicable. When necessary deposit requirements are met, BellSouth will begin taking orders for the resale of service.
  - 6.2 Service orders will be in a standard format designated by BellSouth.
  - 6.3 When notification is received from CLEC-1 that a current end user of BellSouth will subscribe to CLEC-1's service, standard service order intervals for the appropriate class of service will apply.
  - 6.4 BellSouth will not require end user confirmation prior to establishing service for CLEC-1's end user customer. CLEC-1 must, however, be able to demonstrate end user authorization upon request.
  - 6.5 CLEC-1 will be the single point of contact with BellSouth for all subsequent ordering activity resulting in additions or changes to resold services except that BellSouth will accept a request directly from the end user for conversion of the end user's service from CLEC-1 to BellSouth or will accept a request from another CLEC for conversion of the end user's service from CLEC-1 to the other LEC. BellSouth will notify CLEC-1 that such a request has been processed.
  - 6.6 If BellSouth determines that an unauthorized change in local service to CLEC-1 has occurred, BellSouth will reestablish service with the appropriate local service provider and will assess CLEC-1 as the CLEC initiating the unauthorized change, the unauthorized change charge described in F.C.C. Tariff No. 1, Section 13 or applicable state tariff. Appropriate nonrecurring charges, as set forth in Section A4. of the General Subscriber Service Tariff, will also be assessed to CLEC-1. These charges can be adjusted if CLEC-1 provides satisfactory proof of authorization.
  - 6.7 In order to safeguard its interest, BellSouth reserves the right to secure the account with a suitable form of security deposit, unless satisfactory credit has already been established.
    - 6.7.1 Such security deposit shall take the form of an irrevocable Letter of Credit or other forms of security acceptable to BellSouth. Any such security deposit may be held during the continuance of the service as security for the payment of any and all amounts accruing for the service.

- 6.7.2 If a security deposit is required, such security deposit shall be made prior to the inauguration of service.
- 6.7.3 Such security deposit may not exceed two months' estimated billing.
- 6.7.4 The fact that a security deposit has been made in no way relieves CLEC-1 from complying with BellSouth's regulations as to advance payments and the prompt payment of bills on presentation nor does it constitute a waiver or modification of the regular practices of BellSouth providing for the discontinuance of service for non-payment of any sums due BellSouth.
- 6.7.5 BellSouth reserves the right to increase the security deposit requirements when, in its sole judgment, circumstances so warrant and/or gross monthly billing has increased beyond the level initially used to determine the security deposit.
- 6.7.6 In the event that CLEC-1 defaults on its account, service to CLEC-1 will be terminated and any security deposits held will be applied to its account.
- 6.7.7 Interest on a security deposit shall accrue and be paid in accordance with the terms in the appropriate BellSouth tariff.

## **7 Payment And Billing Arrangements**

- 7.1 Prior to submitting orders to BellSouth for local service, a master account must be established for CLEC-1. The CLEC-1 is required to provide the following before a master account is established: proof of PSC/PUC certification, the Application for Master Account, an Operating Company Number ("OCN") assigned by the National Exchange Carriers Association ("NECA") and a tax exemption certificate, if applicable.
- 7.2 BellSouth shall bill CLEC-1 on a current basis all applicable charges and credits.
- 7.3 Payment of all charges will be the responsibility of CLEC-1. CLEC-1 shall make payment to BellSouth for all services billed. BellSouth is not responsible for payments not received by CLEC-1 from CLEC-1's end user. BellSouth will not become involved in billing disputes that may arise between CLEC-1 and its end user. Payments made to BellSouth as payment on account will be credited to an accounts receivable master account and not to an end user's account.
- 7.4 BellSouth will render bills each month on established bill days for each of CLEC-1's accounts.
- 7.5 BellSouth will bill CLEC-1 in advance charges for all services to be provided during the ensuing billing period except charges associated with service usage, which will be billed in arrears. Charges will be calculated on an individual end user account level, including, if applicable, any charge for usage or usage allowances. BellSouth will also bill CLEC-1, and CLEC-1 will be responsible for and remit to BellSouth, all charges applicable to resold services including but not limited to 911 and E911 charges, telecommunications relay charges (TRS), and franchise fees.
- 7.6 The payment will be due by the next bill date (i.e., same date in the following month as the bill date) and is payable in immediately available funds. Payment is considered to have been made when received by BellSouth.
  - 7.6.1 If the payment due date falls on a Sunday or on a Holiday which is observed on a Monday, the payment due date shall be the first non-Holiday day following such Sunday



or Holiday. If the payment due date falls on a Saturday or on a Holiday which is observed on Tuesday, Wednesday, Thursday, or Friday, the payment due date shall be the last non-Holiday day preceding such Saturday or Holiday. If payment is not received by the payment due date, a late payment penalty, as set forth in section 7.8 following, shall apply.

- 7.6.2 If CLEC-1 requests multiple billing media or additional copies of bills, BellSouth will provide these at an appropriate charge to CLEC-1.

7.6.3 Billing Disputes

- 7.6.3.1 Each Party agrees to notify the other Party upon the discovery of a billing dispute. In the event of a billing dispute, the Parties will endeavor to resolve the dispute within sixty (60) calendar days of the Bill Date on which such disputed charges appear. Resolution of the dispute is expected to occur at the first level of management resulting in a recommendation for settlement of the dispute and closure of a specific billing period. If the issues are not resolved within the allotted time frame, the following resolution procedure will begin:

- 7.6.3.2 If the dispute is not resolved within sixty (60) days of the Bill Date, the dispute will be escalated to the second level of management for each of the respective Parties for resolution. If the dispute is not resolved within ninety (90) days of the Bill Date, the dispute will be escalated to the third level of management for each of the respective Parties for resolution.

- 7.6.3.3 If the dispute is not resolved within one hundred and twenty (120) days of the Bill Date, the dispute will be escalated to the fourth level of management for each of the respective Parties for resolution.

- 7.6.3.4 If a Party disputes a charge and does not pay such charge by the payment due date, such charges shall be subject to late payment charges as set forth in the Late Payment Charges provision of this Attachment. If a Party disputes charges and the dispute is resolved in favor of such Party, the other Party shall credit the bill of the disputing Party for the amount of the disputed charges along with any late payment charges assessed no later than the second Bill Date after the resolution of the dispute. Accordingly, if a Party disputes charges and the dispute is resolved in favor of the other Party, the disputing Party shall pay the other Party the amount of the disputed charges and any associated late payment charges assessed no later than the second bill payment due date after the resolution of the dispute. BellSouth shall only assess interest on previously assessed late payment charges in a state where it has authority pursuant to its tariffs.

- 7.7 Upon proof of tax exempt certification from CLEC-1, the total amount billed to CLEC-1 will not include any taxes due from the end user to reflect the tax exempt certification and local tax laws. CLEC-1 will be solely responsible for the computation, tracking, reporting, and payment of taxes applicable to CLEC-1's end user.

- 7.8 If any portion of the payment is received by BellSouth after the payment due date as set forth preceding, or if any portion of the payment is received by BellSouth in funds that are not immediately available to BellSouth, then a late payment penalty shall be due to BellSouth. The

late payment penalty shall be the portion of the payment not received by the payment due date times a late factor and will be applied on a per bill basis. The late factor shall be as set forth in Section A2 of the General Subscriber Services Tariff and Section B2 of the Private Line Service Tariff.

- 7.9 Any switched access charges associated with interexchange carrier access to the resold local exchange lines will be billed by, and due to, BellSouth. No additional charges are to be assessed to CLEC-1
- 7.10 BellSouth will not perform billing and collection services for CLEC-1 as a result of the execution of this Agreement. All requests for billing services should be referred to the appropriate entity or operational group within BellSouth.
- 7.11 Pursuant to 47 CFR Section 51.617, BellSouth will bill CLEC-1 end user common line charges identical to the end user common line charges BellSouth bills its end users.
- 7.12 In general, BellSouth will not become involved in disputes between CLEC-1 and CLEC-1's end user customers over resold services. If a dispute does arise that cannot be settled without the involvement of BellSouth, CLEC-1 shall contact the designated Service Center for resolution. BellSouth will make every effort to assist in the resolution of the dispute and will work with CLEC-1 to resolve the matter in as timely a manner as possible. CLEC-1 may be required to submit documentation to substantiate the claim.

## 8 Discontinuance of Service

- 8.1 The procedures for discontinuing service to an end user are as follows:
  - 8.1.1 Where possible, BellSouth will deny service to CLEC-1's end user on behalf of, and at the request of, CLEC-1. Upon restoration of the end user's service, restoral charges will apply and will be the responsibility of CLEC-1.
  - 8.1.2 At the request of CLEC-1, BellSouth will disconnect a CLEC-1 end user customer.
  - 8.1.3 All requests by CLEC-1 for denial or disconnection of an end user for nonpayment must be in writing.
  - 8.1.4 CLEC-1 will be made solely responsible for notifying the end user of the proposed disconnection of the service.
  - 8.1.5 BellSouth will continue to process calls made to the Annoyance Call Center and will advise CLEC-1 when it is determined that annoyance calls are originated from one of their end user's locations. BellSouth shall be indemnified, defended and held harmless by CLEC-1 and/or the end user against any claim, loss or damage arising from providing this information to CLEC-1. It is the responsibility of CLEC-1 to take the corrective action necessary with its end users who make annoying calls. Failure to do so will result in BellSouth's disconnecting the end user's service.
  - 8.1.6 BellSouth may disconnect and reuse facilities when the facility is in a denied state and BellSouth has received an order to establish new service or transfer of service from an end user or an end user's CLEC at the same address served by the denied facility.
- 8.2 The procedures for discontinuing service to CLEC-1 are as follows:

- 8.2.1 BellSouth reserves the right to suspend or terminate service for nonpayment or in the event of prohibited, unlawful or improper use of the facilities or service, abuse of the facilities, or any other violation or noncompliance by CLEC-1 of the rules and regulations of BellSouth's Tariffs.
- 8.2.2 If payment of account is not received by the bill day in the month after the original bill day, BellSouth may provide written notice to CLEC-1, that additional applications for service will be refused and that any pending orders for service will not be completed if payment is not received by the fifteenth day following the date of the notice. In addition BellSouth may, at the same time, give thirty days notice to the person designated by CLEC-1 to receive notices of noncompliance, and discontinue the provision of existing services to CLEC-1 at any time thereafter.
- 8.2.3 In the case of such discontinuance, all billed charges, as well as applicable termination charges, shall become due.
- 8.2.4 If BellSouth does not discontinue the provision of the services involved on the date specified in the thirty days notice and CLEC-1's noncompliance continues, nothing contained herein shall preclude BellSouth's right to discontinue the provision of the services to CLEC-1 without further notice.
- 8.2.5 If payment is not received or arrangements made for payment by the date given in the written notification, CLEC-1's services will be discontinued. Upon discontinuance of service on a CLEC-1's account, service to CLEC-1's end users will be denied. BellSouth will also reestablish service at the request of the end user or CLEC-1 upon payment of the appropriate connection fee and subject to BellSouth's normal application procedures. CLEC-1 is solely responsible for notifying the end user of the proposed disconnection of the service.
- 8.2.6 If within fifteen days after an end user's service has been denied no contact has been made in reference to restoring service, the end user's service will be disconnected.

**9 Line Information Database (LIDB)**

- 9.1 BellSouth will store in its Line Information Database (LIDB) records relating to service only in the BellSouth region. The LIDB Storage Agreement is included in this Attachment as Exhibit C.
- 9.2 BellSouth will provide LIDB Storage upon written request to CLEC-1 Account Manager stating requested activation date.

**10 RAO Hosting**

- 10.1 The RAO Hosting Agreement is included in this Attachment as Exhibit D. Rates for BellSouth's Centralized Message Distribution System (CMDS) are as set forth in Exhibit H of this Attachment.
- 10.2 BellSouth will provide RAO Hosting upon written request to its Account Manager stating requested activation date.

**11 Optional Daily Usage File (ODUF)**

- 11.1 The Optional Daily Usage File (ODUF) Agreement with terms and conditions is included in this Attachment as Exhibit E. Rates for ODUF are as set forth in Exhibit H of this Attachment.
- 11.2 BellSouth will provide Optional Daily Usage File (ODUF) service upon written request to its Account Manager stating requested activation date.
- 12 **Enhanced Optional Daily Usage File (EODUF)**
  - 12.1 The Enhanced Optional Daily Usage File (EODUF) service Agreement with terms and conditions is included in this Attachment as Exhibit F. Rates for EODUF are as set forth in Exhibit H of this Attachment.
  - 12.2 BellSouth will provide Enhanced Optional Daily Usage File (EODUF) service upon written request to its Account Manager stating requested activation date.
- 13 **Calling Name Delivery (CNAM) Database Service**
  - 13.1 Calling Name Delivery (CNAM) Database Service Agreement is included in this Attachment as Exhibit G. Rates for CNAM are as set forth in Exhibit H of this Attachment.
  - 13.2 BellSouth will provide Calling Name Delivery (CNAM) Database service upon written request to its Account Manager stating requested activation date.

### APPLICABLE DISCOUNTS

The telecommunications services available for purchase by CLEC-1 for the purposes of resale to CLEC-1 end users shall be available at the following discount off of the retail rate.

DISCOUNT*			
STATE	RESIDENCE	BUSINESS	CSAs***
ALABAMA	16.3%	16.3%	
FLORIDA	21.83%	16.81%	
GEORGIA	20.3%	17.3%	
KENTUCKY	16.79%	15.54%	
LOUISIANA	20.72%	20.72%	9.05%
MISSISSIPPI	15.75%	15.75%	
NORTH CAROLINA	21.5%	17.6%	
SOUTH CAROLINA	14.8%	14.8%	8.98%
TENNESSEE**	16%	16%	

- \* When a CLEC provides Resale service in a cross boundary area (areas that are part of the local serving area of another state's exchange) the rates, regulations and discounts for the tariffing state will apply. Billing will be from the serving state.
- \*\* In Tennessee, if CLEC provides its own operator services and directory services, the discount shall be 21.56%. CLEC must provide written notification to BellSouth within 30 days prior to providing its own operator services and directory services to qualify for the higher discount rate of 21.56%.
- \*\*\* Unless noted in this column, the discount for Business will be the applicable discount rate for CSAs.

### OPERATIONAL SUPPORT SYSTEMS (OSS) RATES

BellSouth has developed and made available the following mechanized systems by which CLEC-1 may submit LSRs electronically.

LENS	Local Exchange Navigation System
EDI	Electronic Data Interface
EDI-PC	Electronic Data Interface – Personal Computer
TAG	Telecommunications Access Gateway

LSRs submitted by means of one of these interactive interfaces will incur an OSS electronic ordering charge as specified in the Table below. An individual LSR will be identified for billing purposes by its Purchase Order Number (PON). LSRs submitted by means other than one of these interactive interfaces (mail, fax, courier, etc.) will incur a manual order charge as specified in the table below:

<b>OPERATIONAL SUPPORT SYSTEMS (OSS) RATES</b>	<b><u>Electronic</u> Per LSR received from the CLEC by one of the OSS interactive interfaces</b>	<b><u>Manual</u> Per LSR received from the CLEC by means other than one of the OSS interactive interfaces</b>
<b>OSS LSR Charge</b>	<b>\$3.50</b>	<b>\$19.99</b>
<b>USOC</b>	<b>SOMECS</b>	<b>SOMAN</b>

Note: In addition to the OSS charges, applicable discounted service order and related discounted charges apply per the tariff.

### DENIAL/RESTORAL OSS CHARGE

In the event CLEC-1 provides a list of customers to be denied and restored, rather than an LSR, each location on the list will require a separate PON and, therefore will be billed as one LSR per location.

### CANCELLATION OSS CHARGE

CLEC-1 will incur an OSS charge for an accepted LSR that is later canceled by CLEC-1.

Note: Supplements or clarifications to a previously billed LSR will not incur another OSS charge.

### THRESHOLD BILLING PLAN

The Parties agree that CLEC-1 will incur the mechanized rate for all LSRs, both mechanized and manual, if the percentage of mechanized LSRs to total LSRs meets or exceeds the threshold percentages shown below:

Year	Ratio: Mechanized/Total LSRs
1999	70%
2000	80%
2001	90%

The threshold plan will be discontinued in 2002.

BellSouth will track the total LSR volume for each CLEC for each quarter. At the end of that time period, a Percent Electronic LSR calculation will be made for that quarter based on the LSR data tracked in the LCSC. If this

percentage exceeds the threshold volume, all of that CLECs' future manual LSRs will be billed at the mechanized LSR rate. To allow time for obtaining and analyzing the data and updating the billing system, this billing change will take place on the first day of the second month following the end of the quarter (e.g. May 1 for 1Q, Aug 1 for 2Q, etc.). There will be no adjustments to the amount billed for previously billed LSRs.

The Parties agree that any charges BellSouth is unable to bill on April 15, 1999 will be trued up on or about July 1, 1999.

### EXCLUSIONS AND LIMITATIONS ON SERVICES AVAILABLE FOR RESALE

Type of Service	AL		FL		GA		KY		LA	
	Resale?	Discount?	Resale?	Discount?	Resale?	Discount?	Resale?	Discount?	Resale?	Discount?
1 Grandfathered Services (Note 1)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2 Contract Service Arrangements	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
3 Promotions - > 90 Days (Note 2)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
4 Promotions - < 90 Days (Note 2)	Yes	No	Yes	No	Yes	No	No	No	Yes	No
5 Lifeline/Link Up Services	Yes	Yes	Yes	Yes	Yes	Yes	Note 4	Note 4	Yes	Yes
6 911/E911 Services	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
7 N11 Services	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	No
8 AdWatch <sup>SM</sup> Svc (See Note 6)	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
9 MemoryCall <sup>®</sup> Service	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
10 Mobile Services	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
11 Federal Subscriber Line Charges	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
12 Non-Recurring Charges	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
13 End User Line Charge – Number Portability	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No

Type of Service	MS		NC		SC		TN	
	Resale?	Discount?	Resale?	Discount?	Resale?	Discount?	Resale?	Discount?
1 Grandfathered Services (Note 1)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2 Contract Service Arrangements	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
3 Promotions - > 90 Days (Note 2)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Note 3
4 Promotions - < 90 Days (Note 2)	Yes	No	Yes	No	Yes	No	No	No
5 Lifeline/Link Up Services	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Note 4
6 911/E911 Services	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
7 N11 Services	No	No	No	No	Yes	Yes	Yes	Yes
8 AdWatch <sup>SM</sup> Svc (See Note 6)	Yes	No	Yes	No	Yes	No	Yes	No
9 MemoryCall <sup>®</sup> Service	Yes	No	Yes	No	Yes	No	Yes	No
10 Mobile Services	Yes	No	Yes	No	Yes	No	Yes	No
11 Federal Subscriber Line Charges	Yes	No	Yes	No	Yes	No	Yes	No
12 Non-Recurring Charges	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
13 End User Line Charge – Number Portability	Yes	No	Yes	No	Yes	No	Yes	No

**Applicable Notes:**

- 1 **Grandfathered services** can be resold only to existing subscribers of the grandfathered service.
- 2 Where available for resale, **promotions** will be made available only to end users who would have qualified for the promotion had it been provided by BellSouth directly.
- 3 In Tennessee, long-term **promotions** (offered for more than ninety (90) days) may be obtained at one of the following rates:
  - (a) the stated tariff rate, less the wholesale discount;
  - (b) the promotional rate (the promotional rate offered by BellSouth will not be discounted further by the wholesale discount rate)



**EXHIBIT B**

**Page 2 of 2**

4. **Lifeline/Link Up** services may be offered only to those subscribers who meet the criteria that BellSouth currently applies to subscribers of these services. In Kentucky, the CLEC-I is responsible for funding its own Lifeline and Link Up benefit. In Tennessee, CLEC-I shall purchase BellSouth's Message Rate Service at the stated tariff rate, less the wholesale discount. CLEC-I must further discount the wholesale Message Rate Service to Lifeline customers with a discount which is no less than the minimum discount that BellSouth now provides. CLEC-I is responsible for recovering the Subscriber Line Charge from the National Exchange Carriers Association interstate toll settlement pool just as BellSouth does today. The maximum rate that CLEC-I may charge for Lifeline Service shall be capped at the flat retail rate offered by BellSouth.
- 5 Some of BellSouth's local exchange and toll telecommunications services are not available in certain central offices and areas.
- 6 AdWatch<sup>SM</sup> Service is tariffed as BellSouth<sup>®</sup> AIN Virtual Number Call Detail Service.

## **LINE INFORMATION DATA BASE (LIDB) STORAGE AGREEMENT**

### **I. SCOPE**

A. This Agreement sets forth the terms and conditions pursuant to which BST agrees to store in its LIDB certain information at the request of the Local Exchange Company and pursuant to which BST, its LIDB customers and Local Exchange Carrier shall have access to such information. Local Exchange Carrier understands that BST provides access to information in its LIDB to various telecommunications service providers pursuant to applicable tariffs and agrees that information stored at the request of Local Exchange Carrier, pursuant to this Agreement, shall be available to those telecommunications service providers. The terms and conditions contained in the attached Addendum(s) are hereby made a part of this Agreement as if fully incorporated herein.

B. LIDB is accessed for the following purposes:

1. Billed Number Screening
2. Calling Card Validation
3. Fraud Control

C. BST will provide seven days per week, 24-hours per day, fraud monitoring on Calling Cards, bill-to-third and collect calls made to numbers in BST's LIDB, provided that such information is included in the LIDB query. BST will establish fraud alert thresholds and will notify the Local Exchange Company of fraud alerts so that the Local Exchange Company may take action it deems appropriate. Local Exchange Company understands and agrees BST will administer all data stored in the LIDB, including the data provided by Local Exchange Company pursuant to this Agreement, in the same manner as BST's data for BST's end user customers. BST shall not be responsible to Local Exchange Company for any lost revenue which may result from BST's administration of the LIDB pursuant to its established practices and procedures as they exist and as they may be changed by BST in its sole discretion from time to time.

Local Exchange Company understands that BST currently has in effect numerous billing and collection agreements with various interexchange carriers and billing clearing houses. Local Exchange Company further understands that these billing and collection customers of BST query BST's LIDB to determine whether to accept various billing options from end users. Additionally, Local Exchange Company understands that presently BST has no method to differentiate between BST's own billing and line data in the LIDB and such data which it includes in the LIDB on Local Exchange Company's behalf pursuant to this Agreement. Therefore, until such time as BST can and does implement in its LIDB and its supporting systems the means to differentiate Local Exchange Company's data from BST's data and the parties to this Agreement execute appropriate amendments hereto, the following terms and conditions shall apply:

(a) The Local Exchange Company agrees that it will accept responsibility for telecommunications services billed by BST for its billing and collection customers for Local Exchange Company's end user accounts which are resident in LIDB pursuant to this Agreement. Local Exchange Company authorizes BST to place such charges on Local Exchange Company's bill from BST and agrees that it shall pay all such charges. Charges for which Local Exchange Company hereby takes responsibility include, but are not limited to, collect and third number calls.

(b) Charges for such services shall appear on a separate BST bill page identified with the name of the entity for which BST is billing the charge.

(c) Local Exchange Company shall have the responsibility to render a billing statement to its end users for these charges, but Local Exchange Company's obligation to pay BST for the charges billed shall be independent of whether Local Exchange Company is able or not to collect from the Local Exchange Company's end users.

(d) BST shall not become involved in any disputes between Local Exchange Company and the entities for which BST performs billing and collection. BellSouth will not issue adjustments for charges billed on behalf of an entity to Local Exchange Company. It

shall be the responsibility of the Local Exchange Company and the other entity to negotiate and arrange for any appropriate adjustments.

## **II. TERM**

This Agreement will be effective as of \_\_\_\_\_, 199\_\_, and will continue in effect for one year, and thereafter may be continued until terminated by either party upon thirty (30) days written notice to the other party.

## **III. FEES FOR SERVICE AND TAXES**

A. The Local Exchange Company will not be charged a fee for storage services provided by BST to the Local Exchange Company, as described in Section I of this Agreement.

B. Sales, use and all other taxes (excluding taxes on BST's income) determined by BST or any taxing authority to be due to any federal, state or local taxing jurisdiction with respect to the provision of the service set forth herein will be paid by the Local Exchange Company. The Local Exchange Company shall have the right to have BST contest with the imposing jurisdiction, at the Local Exchange Company's expense, any such taxes that the Local Exchange Company deems are improperly levied.

## **IV. INDEMNIFICATION**

To the extent not prohibited by law, each party will indemnify the other and hold the other harmless against any loss, cost, claim, injury, or liability relating to or arising out of negligence or willful misconduct by the indemnifying party or its agents or contractors in connection with the indemnifying party's provision of services, provided, however, that any indemnity for any loss, cost, claim, injury or liability arising out of or relating to errors or omissions in the provision of services under this Agreement shall be limited as otherwise specified in this Agreement. The indemnifying party under this Section agrees to defend any suit brought against the other party for any such loss, cost, claim, injury or liability. The indemnified party agrees to notify the other party promptly, in writing, of any written claims, lawsuits, or demands for which the other party is responsible under this Section and to cooperate in every reasonable way to facilitate defense or settlement of

claims. The indemnifying party shall not be liable under this Section for settlement by the indemnified party of any claim, lawsuit, or demand unless the defense of the claim, lawsuit, or demand has been tendered to it in writing and the indemnifying party has unreasonably failed to assume such defense.

**V. LIMITATION OF LIABILITY**

Neither party shall be liable to the other party for any lost profits or revenues or for any indirect, incidental or consequential damages incurred by the other party arising from this Agreement or the services performed or not performed hereunder, regardless of the cause of such loss or damage.

**VI. MISCELLANEOUS**

A. It is understood and agreed to by the parties that BST may provide similar services to other companies.

B. All terms, conditions and operations under this Agreement shall be performed in accordance with, and subject to, all applicable local, state or federal legal and regulatory tariffs, rulings, and other requirements of the federal courts, the U. S. Department of Justice and state and federal regulatory agencies. Nothing in this Agreement shall be construed to cause either party to violate any such legal or regulatory requirement and either party's obligation to perform shall be subject to all such requirements.

C. The Local Exchange Company agrees to submit to BST all advertising, sales promotion, press releases, and other publicity matters relating to this Agreement wherein BST's corporate or trade names, logos, trademarks or service marks or those of BST's affiliated companies are mentioned or language from which the connection of said names or trademarks therewith may be inferred or implied; and the Local Exchange Company further agrees not to publish or use advertising, sales promotions, press releases, or publicity matters without BST's prior written approval.

D. This Agreement constitutes the entire agreement between the Local Exchange Company and BST which supersedes all prior agreements or contracts, oral or written representations, statements, negotiations, understandings, proposals and undertakings with respect to the subject matter hereof.

E. Except as expressly provided in this Agreement, if any part of this Agreement is held or

construed to be invalid or unenforceable, the validity of any other Section of this Agreement shall remain in full force and effect to the extent permissible or appropriate in furtherance of the intent of this Agreement.

F. Neither party shall be held liable for any delay or failure in performance of any part of this Agreement for any cause beyond its control and without its fault or negligence, such as acts of God, acts of civil or military authority, government regulations, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, strikes, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities, or acts or omissions of transportation common carriers.

G. This Agreement shall be deemed to be a contract made under the laws of the State of Georgia, and the construction, interpretation and performance of this Agreement and all transactions hereunder shall be governed by the domestic law of such State.

**RESALE ADDENDUM  
TO LINE INFORMATION DATA BASE (LIDB)  
STORAGE AGREEMENT**

This is a Resale Addendum to the Line Information Data Base Storage Agreement dated \_\_\_\_\_, 199 \_\_, between BellSouth Telecommunications, Inc. ("BST"), and Local Exchange Company ("Local Exchange Company"), effective the \_\_\_\_ day of \_\_\_\_\_, 199 \_\_.

**I. GENERAL**

This Addendum sets forth the terms and conditions for Local Exchange Company's provision of billing number information to BST for inclusion in BST's LIDB. BST will store in its LIDB the billing number information provided by Local Exchange Company, and BST will provide responses to on-line, call-by-call queries to this information for purposes specified in Section I.B. of the Agreement.

## **II. DEFINITIONS**

- A. Billing number - a number used by BST for the purpose of identifying an account liable for charges. This number may be a line or a special billing number.
- B. Line number - a ten digit number assigned by BST that identifies a telephone line associated with a resold local exchange service, or with a SPNP arrangement.
- C. Special billing number - a ten digit number that identifies a billing account established by BST in connection with a resold local exchange service or with a SPNP arrangement.
- D. Calling Card number - a billing number plus PIN number assigned by BST.
- E. PIN number - a four digit security code assigned by BST which is added to a billing number to compose a fourteen digit calling card number.
- F. Toll billing exception indicator - associated with a billing number to indicate that it is considered invalid for billing of collect calls or third number calls or both, by the Local Exchange Company.
- G. Billed Number Screening - refers to the activity of determining whether a toll billing exception indicator is present for a particular billing number.
- H. Calling Card Validation - refers to the activity of determining whether a particular calling card number exists as stated or otherwise provided by a caller.
- I. Billing number information - information about billing number or Calling Card number as assigned by BST and toll billing exception indicator provided to BST by the Local Exchange Company.

## **III. RESPONSIBILITIES OF PARTIES**

- A. BST will include billing number information associated with resold exchange lines or SPNP arrangements in its LIDB. The Local Exchange Company will request any toll billing exceptions via the Local Service Request (LSR) form used to order resold exchange lines, or the SPNP service request form used to order SPNP arrangements.
- B. Under normal operating conditions, BST shall include the billing number information in its LIDB upon completion of the service order establishing either the resold local exchange service or the SPNP

arrangement, provided that BST shall not be held responsible for any delay or failure in performance to the extent such delay or failure is caused by circumstances or conditions beyond BST's reasonable control. BST will store in its LIDB an unlimited volume of the working telephone numbers associated with either the resold local exchange lines or the SPNP arrangements. For resold local exchange lines or for SPNP arrangements, BST will issue line-based calling cards only in the name of Local Exchange Company. BST will not issue line-based calling cards in the name of Local Exchange Company's individual end users. In the event that Local Exchange Company wants to include calling card numbers assigned by the Local Exchange Company in the BST LIDB, a separate agreement is required.

C. BST will provide responses to on-line, call-by-call queries to the stored information for the specific purposes listed in the next paragraph.

D. BST is authorized to use the billing number information to perform the following functions for authorized users on an on-line basis:

1. Validate a 14 digit Calling Card number where the first 10 digits are a line number or special billing number assigned by BST, and where the last four digits (PIN) are a security code assigned by BST.
2. Determine whether the Local Exchange Company has identified the billing number as one which should not be billed for collect or third number calls, or both.



### RAO Hosting

- 1 RAO Hosting, Calling Card and Third Number Settlement System (CATS) and Non-Intercompany Settlement System (NICS) services provided to CLEC-1 by BellSouth will be in accordance with the methods and practices regularly adopted and applied by BellSouth to its own operations during the term of this Agreement, including such revisions as may be made from time to time by BellSouth.
- 2 CLEC-1 shall furnish all relevant information required by BellSouth for the provision of RAO Hosting, CATS and NICS.
- 3 Applicable compensation amounts will be billed by BellSouth to CLEC-1 on a monthly basis in arrears. Amounts due from one Party to the other (excluding adjustments) are payable within thirty (30) days of receipt of the billing statement.
- 4 CLEC-1 must have its own unique RAO code. Requests for establishment of RAO status where BellSouth is the selected Centralized Message Distribution System (CMDS) interfacing host, require written notification from CLEC-1 to the BellSouth RAO Hosting coordinator at least eight (8) weeks prior to the proposed effective date. The proposed effective date will be mutually agreed upon between the Parties with consideration given to time necessary for the completion of required Telcordia (formerly BellCore) functions. BellSouth will request the assignment of an RAO code from its connecting contractor, currently Telcordia (formerly BellCore), on behalf of CLEC-1 and will coordinate all associated conversion activities.
- 5 BellSouth will receive messages from CLEC-1 that are to be processed by BellSouth, another LEC or CLEC in the BellSouth region or a LEC outside the BellSouth region.
- 6 BellSouth will perform invoice sequence checking, standard EMI format editing, and balancing of message data with the EMI trailer record counts on all data received from CLEC-1.
- 7 All data received from CLEC-1 that is to be processed or billed by another LEC or CLEC within the BellSouth region will be distributed to that LEC or CLEC in accordance with the agreement(s) which may be in effect between BellSouth and the involved LEC or CLEC.
- 8 All data received from CLEC-1 that is to be placed on the CMDS network for distribution outside the BellSouth region will be handled in accordance with the agreement(s) which may be in effect between BellSouth and its connecting contractor (currently Telcordia (formerly BellCore)).
- 9 BellSouth will receive messages from the CMDS network that are destined to be processed by CLEC-1 and will forward them to CLEC-1 on a daily basis.
- 10 Transmission of message data between BellSouth and CLEC-1 will be via CONNECT:Direct.
- 11 All messages and related data exchanged between BellSouth and CLEC-1 will be formatted in accordance with accepted industry standards for EMI formatted records and packed between appropriate EMI header and trailer records, also in accordance with accepted industry standards.
- 12 CLEC-1 will ensure that the recorded message detail necessary to recreate files provided to BellSouth will be maintained for back-up purposes for a period of three (3) calendar months beyond the related message dates.

- 13 Should it become necessary for CLEC-1 to send data to BellSouth more than sixty (60) days past the message date(s), CLEC-1 will notify BellSouth in advance of the transmission of the data. If there will be impacts outside the BellSouth region, BellSouth will work with its connecting contractor and CLEC-1 to notify all affected Parties.
- 14 In the event that data to be exchanged between the two Parties should become lost or destroyed, both Parties will work together to determine the source of the problem. Once the cause of the problem has been jointly determined and the responsible Party (BellSouth or CLEC-1) identified and agreed to, the company responsible for creating the data (BellSouth or CLEC-1) will make every effort to have the affected data restored and retransmitted. If the data cannot be retrieved, the responsible Party will be liable to the other Party for any resulting lost revenue. Lost revenue may be a combination of revenues that could not be billed to the end users and associated access revenues. Both Parties will work together to estimate the revenue amount based upon historical data through a method mutually agreed upon. The resulting estimated revenue loss will be paid by the responsible Party to the other Party within three (3) calendar months of the date of problem resolution, or as mutually agreed upon by the Parties.
- 15 Should an error be detected by the EMI format edits performed by BellSouth on data received from CLEC-1, the entire pack containing the affected data will not be processed by BellSouth. BellSouth will notify CLEC-1 of the error condition. CLEC-1 will correct the error(s) and will resend the entire pack to BellSouth for processing. In the event that an out-of-sequence condition occurs on subsequent packs, CLEC-1 will resend these packs to BellSouth after the pack containing the error has been successfully reprocessed by BellSouth.
- 16 In association with message distribution service, BellSouth will provide CLEC-1 with associated intercompany settlements reports (CATS and NICS) as appropriate.
- 17 In no case shall either Party be liable to the other for any direct or consequential damages incurred as a result of the obligations set out in this agreement.
- 18 RAO Compensation
  - 18.1 Rates for message distribution service provided by BellSouth for CLEC-1 are as set forth in Exhibit A to this Attachment.
  - 18.2 Rates for data transmission associated with message distribution service are as set forth in Exhibit A to this Attachment.
  - 18.3 Data circuits (private line or dial-up) will be required between BellSouth and CLEC-1 for the purpose of data transmission. Where a dedicated line is required, CLEC-1 will be responsible for ordering the circuit, overseeing its installation and coordinating the installation with BellSouth. CLEC-1 will also be responsible for any charges associated with this line. Equipment required on the BellSouth end to attach the line to the mainframe computer and to transmit successfully ongoing will be negotiated on a case by case basis. Where a dial-up facility is required, dial circuits will be installed in the BellSouth data center by BellSouth and the associated charges assessed to CLEC-1. Additionally, all message toll charges associated with the use of the dial circuit by CLEC-1 will be the responsibility of CLEC-1. Associated equipment on the BellSouth end, including a modem, will be negotiated on a case by case basis between the Parties.

- 18.4 All equipment, including modems and software, that is required on the CLEC-1 end for the purpose of data transmission will be the responsibility of CLEC-1.

19 Intercompany Settlements Messages

- 19.1 This Section addresses the settlement of revenues associated with traffic originated from or billed by CLEC-1 as a facilities based provider of local exchange telecommunications services outside the BellSouth region. Only traffic that originates in one Bell operating territory and bills in another Bell operating territory is included. Traffic that originates and bills within the same Bell operating territory will be settled on a local basis between CLEC-1 and the involved company(ies), unless that company is participating in NICS.
- 19.2 Both traffic that originates outside the BellSouth region by CLEC-1 and is billed within the BellSouth region, and traffic that originates within the BellSouth region and is billed outside the BellSouth region by CLEC-1, is covered by this Agreement (CATS). Also covered is traffic that either is originated by or billed by CLEC-1, involves a company other than CLEC-1, qualifies for inclusion in the CATS settlement, and is not originated or billed within the BellSouth region (NICS).
- 19.3 Once CLEC-1 is operating within the BellSouth territory, revenues associated with calls originated and billed within the BellSouth region will be settled via Telcordia (formerly BellCore)'s, its successor or assign, NICS system.
- 19.4 BellSouth will receive the monthly NICS reports from Telcordia (formerly BellCore), its successor or assign, on behalf of CLEC-1. BellSouth will distribute copies of these reports to CLEC-1 on a monthly basis.
- 19.5 BellSouth will receive the monthly Calling Card and Third Number Settlement System (CATS) reports from Telcordia (formerly BellCore), its successor or assign, on behalf of CLEC-1. BellSouth will distribute copies of these reports to CLEC-1 on a monthly basis.
- 19.6 BellSouth will collect the revenue earned by CLEC-1 from the Bell operating company in whose territory the messages are billed (CATS), less a per message billing and collection fee of five cents (\$0.05), on behalf of CLEC-1. BellSouth will remit the revenue billed by CLEC-1 to the Bell operating company in whose territory the messages originated, less a per message billing and collection fee of five cents (\$0.05), on behalf of CLEC-1. These two amounts will be netted together by BellSouth and the resulting charge or credit issued to CLEC-1 via a monthly Carrier Access Billing System (CABS) miscellaneous bill.
- 19.7 BellSouth will collect the revenue earned by CLEC-1 within the BellSouth territory from another CLEC also within the BellSouth territory (NICS) where the messages are billed, less a per message billing and collection fee of five cents (\$0.05), on behalf of CLEC-1. BellSouth will remit the revenue billed by CLEC-1 within the BellSouth region to the CLEC also within the BellSouth region, where the messages originated, less a per message billing and collection fee of five cents (\$0.05). These two amounts will be netted together by BellSouth and the resulting charge or credit issued to CLEC-1 via a monthly Carrier Access Billing System (CABS) miscellaneous bill.

BellSouth and CLEC-1 agree that monthly netted amounts of less than fifty dollars (\$50.00) will not be settled.

### Optional Daily Usage File

1 Upon written request from CLEC-1, BellSouth will provide the Optional Daily Usage File (ODUF) service to CLEC-1 pursuant to the terms and conditions set forth in this section.

2 The CLEC-1 shall furnish all relevant information required by BellSouth for the provision of the Optional Daily Usage File.

3 The Optional Daily Usage Feed will contain billable messages that were carried over the BellSouth Network and processed in the BellSouth Billing System, but billed to a CLEC-1 customer.

Charges for delivery of the Optional Daily Usage File will appear on the CLEC-1s' monthly bills. The charges are as set forth in Exhibit A to this Attachment.

4 The Optional Daily Usage Feed will contain both rated and unrated messages. All messages will be in the standard Alliance for Telecommunications Industry Solutions (ATIS) EMI record format.

5 Messages that error in the billing system of the CLEC-1 will be the responsibility of the CLEC-1. If, however, the CLEC-1 should encounter significant volumes of errored messages that prevent processing by the CLEC-1 within its systems, BellSouth will work with the CLEC-1 to determine the source of the errors and the appropriate resolution.

6 The following specifications shall apply to the Optional Daily Usage Feed.

#### *6.1 Usage To Be Transmitted*

6.1.1 The following messages recorded by BellSouth will be transmitted to the CLEC-1:

- message recording for per use/per activation type services (examples: Three Way Calling, Verify, Interrupt, Call Return, ETC.)
- measured billable Local
- Directory Assistance messages
- intraLATA Toll
- WATS & 800 Service
- N11
- Information Service Provider Messages
- Operator Services Messages
- Operator Services Message Attempted Calls (UNE only)
- Credit/Cancel Records
- Usage for Voice Mail Message Service

- 6.1.2 Rated Incollects (originated in BellSouth and from other companies) can also be on Optional Daily Usage File. Rated Incollects will be intermingled with BellSouth recorded rated and unrated usage. Rated Incollects will not be packed separately.
- 6.1.3 BellSouth will perform duplicate record checks on records processed to Optional Daily Usage File. Any duplicate messages detected will be deleted and not sent to CLEC-1.
- 6.1.4 In the event that CLEC-1 detects a duplicate on Optional Daily Usage File they receive from BellSouth, CLEC-1 will drop the duplicate message (CLEC-1 will not return the duplicate to BellSouth).

## 6.2 *Physical File Characteristics*

- 6.2.1 The Optional Daily Usage File will be distributed to CLEC-1 via an agreed medium with CONNECT:Direct being the preferred transport method. The Daily Usage Feed will be a variable block format (2476) with an LRECL of 2472. The data on the Daily Usage Feed will be in a non-compacted EMI format (175 byte format plus modules). It will be created on a daily basis (Monday through Friday except holidays). Details such as dataset name and delivery schedule will be addressed during negotiations of the distribution medium. There will be a maximum of one dataset per workday per OCN.
- 6.2.2 Data circuits (private line or dial-up) may be required between BellSouth and CLEC-1 for the purpose of data transmission. Where a dedicated line is required, CLEC-1 will be responsible for ordering the circuit, overseeing its installation and coordinating the installation with BellSouth. CLEC-1 will also be responsible for any charges associated with this line. Equipment required on the BellSouth end to attach the line to the mainframe computer and to transmit successfully ongoing will be negotiated on a case by case basis. Where a dial-up facility is required, dial circuits will be installed in the BellSouth data center by BellSouth and the associated charges assessed to CLEC-1. Additionally, all message toll charges associated with the use of the dial circuit by CLEC-1 will be the responsibility of CLEC-1. Associated equipment on the BellSouth end, including a modem, will be negotiated on a case by case basis between the parties. All equipment, including modems and software, that is required on CLEC-1 end for the purpose of data transmission will be the responsibility of CLEC-1.

## 6.3 **Packing Specifications**

- 6.3.1 A pack will contain a minimum of one message record or a maximum of 99,999 message records plus a pack header record and a pack trailer record. One transmission can contain a maximum of 99 packs and a minimum of one pack.
- 6.3.2 The OCN, From RAO, and Invoice Number will control the invoice sequencing. The From RAO will be used to identify to CLEC-1 which BellSouth RAO that is sending the message. BellSouth and CLEC-1 will use the invoice sequencing to control data exchange. BellSouth will be notified of sequence failures identified by CLEC-1 and resend the data as appropriate.

### **THE DATA WILL BE PACKED USING ATIS EMI RECORDS.**

## 6.4 **Pack Rejection**

- 6.4.1 CLEC-1 will notify BellSouth within one business day of rejected packs (via the mutually agreed medium). Packs could be rejected because of pack sequencing discrepancies or a critical edit failure on the Pack Header or Pack Trailer records (i.e. out-of-balance condition on grand totals, invalid data populated). Standard ATIS EMI Error Codes will be used. CLEC-1 will not be required to return the actual rejected data to BellSouth. Rejected packs will be corrected and retransmitted to CLEC-1 by BellSouth.

## **6.5 Control Data**

CLEC-1 will send one confirmation record per pack that is received from BellSouth. This confirmation record will indicate CLEC-1 received the pack and the acceptance or rejection of the pack. Pack Status Code(s) will be populated using standard ATIS EMI error codes for packs that were rejected by CLEC-1 for reasons stated in the above section.

## **6.6 Testing**

- 6.6.1** Upon request from CLEC-1, BellSouth shall send test files to CLEC-1 for the Optional Daily Usage File. The parties agree to review and discuss the file's content and/or format. For testing of usage results, BellSouth shall request that CLEC-1 set up a production (LIVE) file. The live test may consist of CLEC-1's employees making test calls for the types of services CLEC-1 requests on the Optional Daily Usage File. These test calls are logged by CLEC-1, and the logs are provided to BellSouth. These logs will be used to verify the files. Testing will be completed within 30 calendar days from the date on which the initial test file was sent.

### **Enhanced Optional Daily Usage File**

- 1 Upon written request from CLEC-1, BellSouth will provide the Enhanced Optional Daily Usage File (EODUF) service to CLEC-1 pursuant to the terms and conditions set forth in this section. EODUF will only be sent to existing ODUF subscribers who request the EODUF option.
  - 2 The CLEC-1 shall furnish all relevant information required by BellSouth for the provision of the Enhanced Optional Daily Usage File.
  - 3 The Enhanced Optional Daily Usage File (EODUF) will provide usage data for local calls originating from resold Flat Rate Business and Residential Lines.  
  
Charges for delivery of the Enhanced Optional Daily Usage File will appear on the CLEC-1s' monthly bills. The charges are as set forth in Exhibit A to this Attachment.
  - 4 All messages will be in the standard Alliance for Telecommunications Industry Solutions (ATIS) EMI record format.
  - 5 Messages that error in the billing system of the CLEC-1 will be the responsibility of the CLEC-1. If, however, the CLEC-1 should encounter significant volumes of errored messages that prevent processing by the CLEC-1 within its systems, BellSouth will work with the CLEC-1 to determine the source of the errors and the appropriate resolution.
  - 6 The following specifications shall apply to the Optional Daily Usage Feed.
- 6.1 *Usage To Be Transmitted*
- 6.1.1 The following messages recorded by BellSouth will be transmitted to CLEC-1:

Customer usage data for flat rated local call originating from CLEC end user lines (IFB or IFR).  
The EODUF record for flat rate messages will include:

Date of Call  
From Number  
To Number  
Connect Time  
Conversation Time  
Method of Recording  
From RAO  
Rate Class  
Message Type  
Billing Indicators  
Bill to Number

- 6.1.2 BellSouth will perform duplicate record checks on EODUF records processed to Optional Daily Usage File. Any duplicate messages detected will be deleted and not sent to CLEC-1.

- 6.1.3 In the event that CLEC-1 detects a duplicate on Enhanced Optional Daily Usage File they receive from BellSouth, CLEC-1 will drop the duplicate message (CLEC-1 will not return the duplicate to BellSouth).

## 6.2 *Physical File Characteristics*

- 6.2.1 The Enhanced Optional Daily Usage Feed will be distributed to CLEC-1 over their existing Optional Daily Usage File (ODUF) feed. The EODUF messages will be intermingled among CLEC-1's Optional Daily Usage File (ODUF) messages. The EODUF will be a variable block format (2476) with an LRECL of 2472. The data on the EODUF will be in a non-compacted EMI format (175 byte format plus modules). It will be created on a daily basis (Monday through Friday except holidays).
- 6.2.2 Data circuits (private line or dial-up) may be required between BellSouth and CLEC-1 for the purpose of data transmission. Where a dedicated line is required, CLEC-1 will be responsible for ordering the circuit, overseeing its installation and coordinating the installation with BellSouth. CLEC-1 will also be responsible for any charges associated with this line. Equipment required on the BellSouth end to attach the line to the mainframe computer and to transmit successfully ongoing will be negotiated on a case by case basis. Where a dial-up facility is required, dial circuits will be installed in the BellSouth data center by BellSouth and the associated charges assessed to CLEC-1. Additionally, all message toll charges associated with the use of the dial circuit by CLEC-1 will be the responsibility of CLEC-1. Associated equipment on the BellSouth end, including a modem, will be negotiated on a case by case basis between the parties. All equipment, including modems and software, that is required on CLEC-1 end for the purpose of data transmission will be the responsibility of CLEC-1.

## 6.3 **Packing Specifications**

- 6.3.1 A pack will contain a minimum of one message record or a maximum of 99,999 message records plus a pack header record and a pack trailer record. One transmission can contain a maximum of 99 packs and a minimum of one pack.
- 6.3.2 The Operating Company Number (OCN), From Revenue Accounting Office (RAO), and Invoice Number will control the invoice sequencing. The From RAO will be used to identify to CLEC-1 which BellSouth RAO that is sending the message. BellSouth and CLEC-1 will use the invoice sequencing to control data exchange. BellSouth will be notified of sequence failures identified by CLEC-1 and resend the data as appropriate.

**THE DATA WILL BE PACKED USING ATIS EMI RECORDS.**



## CALLING NAME DELIVERY (CNAM) DATABASE SERVICES

### 1.00 DEFINITIONS

For the purpose of this Attachment, the following terms shall be defined as:

**CALLING NAME DELIVERY DATABASE SERVICE (CNAM)** - The ability to associate a name with the calling party number, allowing the end user subscriber (to which a call is being terminated) to view the calling party's name before the call is answered. This service also provides CLEC-1/CLEC-1 the opportunity to load and store its subscriber names in the BellSouth CNAM SCPs.

**CALLING PARTY NUMBER (CPN)** - The number of the calling party that is delivered to the terminating switch using common channel signaling system 7 (CCS7) technology, and that is contained in the Initial Address Message (IAM) portion of the CCS7 call setup.

**COMMON CHANNEL SIGNALING SYSTEM 7 (CCS7)** - A network signaling technology in which all signaling information between two or more nodes is transmitted over high-speed data links, rather than over voice circuits.

**SERVICE CONTROL POINTs (SCPs)** - The real-time data base systems that contain the names to be provided in response to queries received from CNAM SSPs.

**SERVICE MANAGEMENT SYSTEM (SMS)** - The main operations support system of CNAM DATABASE SERVICE. CNAM records are loaded into the SMS, which in turn downloads into the CNAM SCP.

**SERVICE SWITCHING POINTs (SSPs)** - Features of computerized switches in the telephone network that determine that a terminating line has subscribed to CNAM service, and then communicate with CNAM SCPs in order to provide the name associated with the calling party number.

**SUBSYSTEM NUMBER (SSN)** - The address used in the Signaling Connection Control Part (SCCP) layer of the SS7 protocol to designate an application at an end signaling point. A SSN for CNAM at the end office designates the CNAM application within the end office. BellSouth uses the CNAM SSN of 232.

### 2.0 ATTACHMENT

- 2.01 This Attachment contains the terms and conditions where BellSouth will provide to the CLEC-1 access to the BellSouth CNAM SCP for query or record storage purposes.
- 2.02 CLEC-1 shall submit to BellSouth a notice of its intent to access and utilize BellSouth CNAM Database Services pursuant to the terms and conditions of this Attachment. Said notice shall be in writing, no less than 60 days prior to CLEC-1's access to BellSouth's CNAM Database Services and shall be addressed to CLEC-1's Account Manager.

### 3.00 PHYSICAL CONNECTION AND COMPENSATION

- 3.01 BellSouth's provision of CNAM Database Services to CLEC-1 requires interconnection from CLEC-1 CLEC-1 to BellSouth CNAM Service Control Points (SCPs). Such interconnections shall be established

pursuant to Attachment 3 of this Agreement. The appropriate charge for access to and use of the BellSouth CNAM Database service shall be as set forth in this Attachment.

- 3.02 In order to formulate a CNAM query to be sent to the BellSouth CNAM SCP, CLEC-1 shall provide its own CNAM SSP. CLEC-1's CNAM SSPs must be compliant with TR-NWT-001188, "CLASS Calling Name Delivery Generic Requirements".
- 3.03 If CLEC-1 elects to access the BellSouth CNAM SCP via a third party CCS7 transport provider, the third party CCS7 provider shall interconnect with the BellSouth CCS7 network according to BellSouth's Common Channel Signaling Interconnection Guidelines and Telcordia (formerly BellCore)'s CCS Network Interface Specification document, TR-TSV-000905. In addition, the third party provider shall establish CCS7 interconnection at the BellSouth Local Signal Transfer Points (LSTPs) serving the BellSouth CNAM SCPs that CLEC-1 desires to query.
- 3.04 Out-Of-Region Customers. If the customer queries the BellSouth CNAM SCP via a third party national SS7 transport provider, the third party SS7 provider shall interconnect with the BellSouth CCS7 network according to BellSouth's Common Channel Signaling Interconnection Guidelines and Bellcore's CCS Network Interface Specification document, TR-TSV-000905. In addition, the third party provider shall establish SS7 interconnection at one or more of the BellSouth Gateway Signal Transfer Points (STPs). The payment of all costs associated with the transport of SS7 signals via a third party will be established by mutual agreement of the parties and writing shall, by this reference become an integral part of this Agreement.

#### **4.00 CNAM RECORD INITIAL LOAD AND UPDATES**

- 4.01 The mechanism to be used by CLEC-1 for initial CNAM record load and/or updates shall be determined by mutual agreement. The initial load and all updates shall be provided by CLEC-1 in the BellSouth specified format and shall contain records for every working telephone number that can originate phone calls. It is the responsibility of CLEC-1 to provide accurate information to BellSouth on a current basis.
- 4.02 Updates to the SMS shall occur no less than once a week, reflect service order activity affecting either name or telephone number, and involve only record additions, deletions or changes.
- 4.03 CLEC-1 CNAM records provided for storage in the BellSouth CNAM SCP shall be available, on a SCP query basis only, to all parties querying the BellSouth CNAM SCP. Further, CNAM service shall be provided by each party consistent with state and/or federal regulation.

BELLSOUTH CLEC-1 RATES  
ODUF/EDOUF/CMS/CHAM

The rates contained within this Exhibit were negotiated as a whole within the negotiations of the terms and conditions contained within the Attachment and each rate, term and condition is interdependent upon the other rates, terms and conditions within this Attachment											
RATES BY STATE											
DESCRIPTION	USOC	AL	FL	GA	KY	LA	MS	NC	SC	TN	
ODUF: Recording, per message	N/A	\$0.0002	\$0.008	\$0.008	\$0.0008611	\$0.00019	\$0.0001179	\$0.008	\$0.0002862	\$0.008	
EDOUF: Message Processing, per message	N/A	\$0.0033	\$0.004	\$0.004	\$0.0032357	\$0.0024	\$0.0032089	\$0.004	\$0.0032344	\$0.004	
CMS: Message Processing, per message	N/A	\$0.004	\$0.004	\$0.004	\$0.004	\$0.004	\$0.004	\$0.004	\$0.004	\$0.004	
EDOUF: Message Processing, per magnetic tape provisioned	N/A	\$55.19	\$54.95	\$54.95	\$55.68	\$47.30	\$54.62	\$54.95	\$54.72	\$54.95	
ODUF: Data Transmission (CONNECT:DIRECT), per message	N/A	\$0.00004	\$0.001	\$0.001	\$0.0000365	\$0.00003	\$0.0000354	\$0.001	\$0.0000357	\$0.001	
CMS: Data Transmission (CONNECT:DIRECT), per message	N/A	\$0.000364	\$0.000364	\$0.000364	\$0.000364	\$0.000364	\$0.000364	\$0.000364	\$0.000364	\$0.000364	
CALLING NAME (CHAM) QUERY SERVICE	N/A	\$0.001	\$0.001	\$0.001	\$0.001	\$0.001	\$0.001	\$0.001	\$0.001	\$0.001	
CHAM (Database Owner), Per Query											
CHAM (Non-Database Owner), Per Query *	N/A	\$0.016	\$0.016	\$0.016	\$0.016	\$0.016	\$0.016	\$0.016	\$0.016	\$0.016	
NRC, applicable when CLEC-1 uses the Character Based User Interface (CHUI) method to transmit the names to the BellSouth CHAM database	N/A	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01	
* Volume and term arrangements are also available	N/A	\$595.00	\$595.00	\$595.00	\$595.00	\$595.00	\$595.00	\$595.00	\$595.00	\$595.00	
NOTES:											
If no rate is identified in the contract, the rate for the specific service or function will be as set forth in applicable BellSouth tariff or as negotiated by the parties upon request by either party.											

NOTES:

If no rate is identified in the contract, the rate for the specific service or function will be as set forth in applicable BellSouth tariff or as negotiated by the parties upon request by either party.





BellSouth Interconnection Services

Facsimile

From Page Miller  
Department Interconnection Services  
Address 675 W Peachtree St. NE  
34S91  
Atlanta, Georgia 30375  
Telephone Number 404 927-1377  
Fax Number 404 529-7839

To Larry Seab

Telephone Number 601-949-7500 y 7231  
Fax Number 601-969-6656

Comments

Larry, Here is the missing page 11. Sorry for the oversight. Please call me after you've had a chance to got through the agreement, and we'll discuss any issues/proposed changes or questions you may have. I will be out of the office tomorrow, returning on Tuesday. Thanks, Page 404-927-1377

If this fax is not received in good order, please contact the sender listed above.

Date 09/02/99 Total Number of Pages 1 (EXCLUDING COVER PAGE)

EXHIBIT "B"

- 13.3.1 Taxes and fees imposed on the purchasing Party shall be borne by the purchasing Party, even if the obligation to collect and/or remit such taxes or fees is placed on the providing Party.
- 13.3.2 To the extent permitted by applicable law, any such taxes and/or fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing Party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing Party at the time that the respective service is billed.
- 13.3.3 If the purchasing Party determines that in its opinion any such taxes or fees are not payable, the providing Party shall not bill such taxes or fees to the purchasing Party if the purchasing Party provides written certification, reasonably satisfactory to the providing Party, stating that it is exempt or otherwise not subject to the tax or fee, setting forth the basis therefor, and satisfying any other requirements under applicable law. If any authority seeks to collect any such tax or fee that the purchasing Party has determined and certified not to be payable, or any such tax or fee that was not billed by the providing Party, the purchasing Party may contest the same in good faith, at its own expense. In any such contest, the purchasing Party shall promptly furnish the providing Party with copies of all filings in any proceeding, protest, or legal challenge, all rulings issued in connection therewith, and all correspondence between the purchasing Party and the taxing authority.
- 13.3.4 In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing Party during the pendency of such contest, the purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.
- 13.3.5 If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing Party shall pay such additional amount, including any interest and penalties thereon.
- 13.3.6 Notwithstanding any provision to the contrary, the purchasing Party shall protect, indemnify and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any such tax or fee, interest or penalties thereon, or other charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the providing Party in connection with any claim for or contest of any such tax or fee.
- 13.3.7 Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a taxing authority; such notice to be provided, if possible, at least ten (10) days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) days after receipt of such assessment, proposed assessment or claim.





BellSouth Interconnection Services

Facsimile

From Page Miller  
Department Interconnection Services  
Address 675 W Peachtree St. NE  
34S91  
Atlanta, Georgia 30375  
Telephone Number 404 927-1377  
Fax Number 404 529-7839

To Larry Seab

Telephone Number 601-949-7500

Fax Number 601-969-6656

**Comments**

Larry, Please see the attached letter that is being sent Fed-Ex today. I will be in the office today if you would like to give me a call; Otherwise, I'll be back in on Tuesday 12/28. If I don't talk to you have a great Christmas.

Page 404-927-1377

If this fax is not received in good order, please contact the sender listed above.

Date 12/22/99 Total Number of Pages 2 (EXCLUDING COVER PAGE)

**EXHIBIT "C"**



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**BellSouth Interconnection Services**

675 West Peachtree Street  
Room 34S91  
Atlanta, Georgia 30375

Page Miller  
(404) 927-1377  
Fax: (404) 529-7839

December 22, 1999

**Via Federal Express and Facsimile**

Mr. Larry Seab  
Mr. Charles McGuffee  
NOW Communications, Inc.  
713 Country Place Drive  
Jackson, MS 39208

Re: Resale Renegotiations

Dear Mr. Seab and Mr. McGuffee:

The purpose of this letter is to convey BellSouth's position regarding NOW Communication's ("NOW") obligation to renegotiate the resale agreement between BellSouth and NOW.

During a conversation on November 22, 1999, Mr. McGuffee of NOW informed me that NOW has not entered into resale renegotiations with BellSouth due to a lawsuit NOW filed against BellSouth in 1998, which, in part, addresses issues regarding the negotiation of the June 1, 1997 resale agreement. Mr. McGuffee also informed me that Carroll Ingram, the attorney representing NOW, advised NOW that all negotiations with BellSouth must go through BellSouth attorney Fred Walters. I relayed NOW's position regarding renegotiations to the BellSouth Legal Department. They strongly advised me that the lawsuit NOW filed against BellSouth has absolutely no bearing on NOW's obligation to renegotiate a new agreement, nor does it alter the channels that NOW would go through to pursue renegotiations with BellSouth. The two events are separate and in no way related. Therefore, BellSouth urgently requests that NOW negotiate in good faith a new agreement with BellSouth. I will act as BellSouth's negotiator in this matter.

A copy of BellSouth's standard resale agreement was initially forwarded to NOW for the purpose of renegotiations on October 2, 1998. Subsequent phone calls were made to NOW. However, NOW declined to negotiate and thus no progress was made toward a new agreement. As a result, BellSouth reiterated the need for the two companies to negotiate a new agreement and sent a letter on August 20, 1999 (copy enclosed) to officially re-start negotiations with NOW.

Section 251 of the Telecommunications Act of 1996 allows for a negotiation period of 135 days from the date negotiations is requested. If, at the end of 135 days the parties have not reached agreement, either party may file a petition for arbitration with the appropriate regulatory commission. By sending the August 20, 1999 letter, BellSouth effectively extended the time period in which we can negotiate. The 135-day negotiation period restarted with the letter sent

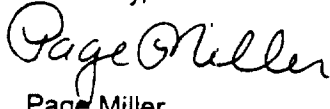
to you dated August 20, 1999 and will end January 27, 2000. The arbitration period will begin January 2, 2000 and will end January 27, 2000.

BellSouth is committed to working with NOW to negotiate a mutually acceptable resale agreement and would like to do so prior to the end of the arbitration period. Enclosed is a copy of BellSouth's revised standard agreement, which BellSouth is proposing to use as a basis for renegotiations. Please review the agreement and contact me at 404-927-1377 to discuss any questions and/or issues you may have. I can also be reached via e-mail at [page.miller@bridge.bellsouth.com](mailto:page.miller@bridge.bellsouth.com)

At this point, I am available to NOW for negotiations beginning 12/28/1999 and will remain available until January 21, 2000. If BellSouth and NOW cannot successfully conclude negotiations by January 21, 2000, BellSouth will have no alternative but to file for arbitration. That notwithstanding, please contact me as soon as possible to respond to this request for negotiations and advise me of dates NOW will be available for discussions.

I look forward to hearing from you soon.

Sincerely,

A handwritten signature in cursive script that reads "Page Miller".

Page Miller  
Manager - Interconnection Services/Pricing

Enclosures





January 21, 2000

Mr. Jerry Hendrix, Senior Director  
Interconnection Services  
BellSouth Telecommunications, Inc.  
675 West Peachtree Street, NE 34S91  
Atlanta, GA 30375

Dear Mr. Hendrix:

NOW Communications is currently under an arbitration period that expires January 27, 2000. We respectfully request your concurrence to extend this window for 30 days. We are looking toward moving from a resale agreement to a facilities-based agreement with provisions for UNE combinations pursuant to the FCC 319 Order.

NOW agrees to terminate the North Carolina Resale Agreement to avoid arbitration. NOW is not currently providing service to anyone in that state.

Under a negotiated facilities-based agreement, we recognize that OSS cost recovery is an appropriate cost element to be included in a negotiated facilities-based agreement.

Your concurrence of this extension of the arbitration window is appreciated.

Sincerely,

Larry W. Seab  
President / CEO

CC: Carroll H. Ingram, Esq. Tel-601.261.1385  
Ingram & Associates Fax-601.261.1393  
P. O. Box 15039  
Hattiesburg, MS 39404-5039

NOW Communications, Inc.  
P. O. Box 807  
Jackson, MS 39205-0807  
Telephone 601.714.7000  
Fax 601.969.7880

EXHIBIT "D"



**BellSouth Interconnection Services**  
675 W. Peachtree Street, NE  
34S91  
Atlanta, Georgia 30375

Page Miller  
(404) 927-1377  
(404) 529-7839 FAX

January 26, 2000

**Via Federal Express and Facsimile**

Mr. Larry Seab  
NOW Communications, Inc.  
713 Country Place Drive  
Jackson, MS 39208

Re: Arbitration Extension

Dear Mr. Seab:

BellSouth Acknowledges receipt of and thanks you for your letter of January 21, 2000 regarding our negotiations. In that regard, BellSouth Telecommunications, Inc. ("BellSouth") seeks to confirm herein the recent agreement between NOW Communications, Inc. ("NOW") and BellSouth as to the following:

- Transition from negotiations of a resale agreement to negotiations of an interconnection agreement to include provisions for combinations of unbundled network elements pursuant to the FCC's 319 Order.
- 30-day extension of the procedural schedule between BellSouth and NOW for negotiation of an interconnection agreement for the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, South Carolina and Tennessee.
- Termination of the current resale agreement between BellSouth and NOW dated June 1, 1997 in the state of North Carolina.

Section 252 of the Telecommunications Act provides that the period of negotiation and arbitration of interconnection agreements is to be calculated from the date on which negotiations is requested. With respect to the NOW resale agreement, August 20, 1999 was the date for commencement of negotiations. This date is based on my letter to you dated August 20, 1999, which created an "arbitration window" for unresolved issues of January 2, 2000 through January 27, 2000. However, on January 20, 2000, NOW made a request to move from negotiating a stand-alone resale agreement to negotiating a full-blown interconnection agreement containing provisions for combining unbundled network elements. Since both parties wish to pursue negotiated outcomes rather than abandon discussions and submit unresolved issues for arbitration before the expiration of their statutory right to do so, BellSouth and NOW seek to extend the current arbitration window by 30 days until February 26, 2000.

BellSouth sent a sample interconnection agreement to NOW to use as a basis for interconnection negotiations via e-mail on January 20, 2000. In order to move the negotiation process forward, NOW should review the sample interconnection agreement and provide BellSouth with a list of issues, language proposals and/or questions, if there are any, as quickly as possible.

Date: \_\_\_\_\_

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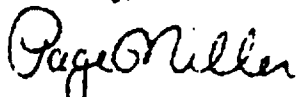
**BellSouth Interconnection Services****© BELL SOUTH**

BellSouth hereby asks that NOW confirm its agreement to transition from negotiation of a resale agreement to negotiation of an interconnection agreement, extend the arbitration window by 30 days and terminate the existing resale agreement in the state of North Carolina by signing the acknowledgement on this letter and returning it to me. By signing and counter-signing this letter both parties waive any right to claim that the dates within which a party may seek state commission arbitration of unresolved issues begins and ends on any earlier dates.

BellSouth and NOW will continue to honor the terms of the existing agreement dated June 1, 1997 for the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, South Carolina and Tennessee until a new agreement is signed.

Please contact me as soon as possible after receipt of this letter if NOW has any questions or concerns regarding the items agreed to in this letter. BellSouth looks forward to continuing our discussions concerning a successor agreement.

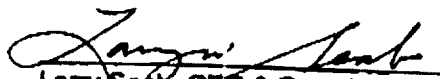
Sincerely,



Page Miller  
Manager - Interconnection Services

Cc: Jerry Hendrix

Agreed to and approved by:



Larry Seab, CEO & President, for and on behalf  
of NOW Communications, Inc.

Date: 1/26/00





**INGRAM**  
&  
**ASSOCIATES, PLLC**

OFFICE OF CARROLL H. INGRAM

ATTORNEYS  
AND  
COUNSELORS AT LAW

February 22, 2000

Mr. Steve Klimacek  
BellSouth Telecommunications, Inc.  
Legal Department - Suite 4300  
675 West Peachtree Street, N E  
Atlanta, GA 303375-0001

RE: Now Communications, Inc. vs. BellSouth Telecommunications, Inc.

Dear Steve:

Now Communications requests that the date for filing arbitration petitions be extended at least twenty (20) days.

During the current extension, we have worked toward agreement which would avoid the necessity for arbitration. We have not found success but have reason to believe that success can be achieved within a twenty (20) day extension. BellSouth has advised us that key persons are unavailable this week. Hopefully, next week when these persons are available, decisions can be made that which result in agreement. Thus, avoiding the necessity for arbitration. We believe it is reasonable to extend the time in hopes of avoiding the filing of arbitration in eight (8) or nine (9) states.

Cordially,

INGRAM & ASSOCIATES

  
Carroll H. Ingram

CHI/jh

xc: Larry Seab  
Charlie McGuffee  
Page Miller

COMPOSITE  
EXHIBIT "F"

**INGRAM  
&  
ASSOCIATES, PLLC**

OFFICE OF CARROLL H. INGRAM

February 23, 2000

ATTORNEYS  
AND  
COUNSELORS AT LAW

Mr. Steve Klimacek  
BellSouth Telecommunications, Inc.  
Legal Department - Suite 4300  
675 West Peachtree Street, N E  
Atlanta, GA 303375-0001

RE: Now Communications, Now Communications d/b/a Tel-Link, Inc. / BellSouth  
Resale Contract Negotiations

Dear Steve:

I appreciate the opportunity to visit with Page Miller and others regarding the on-going contract negotiations between our respective clients while you were out of State. Likewise, I am appreciative of your open attempt to seek solutions which would avoid the necessity for arbitration.

A few days ago it was suggested that perhaps a discount, based on business could help some of the economic factors and help in reaching an agreement. We were advised that BellSouth was considering this possibility but the negotiations could not be conducted until some time next week. You advised that Friday, February 25, 2000 is the deadline requiring filing petitions for arbitration. In view of this, I requested a twenty (20) day extension to allow the completion of the discount negotiations.

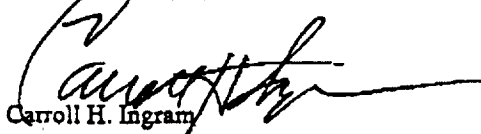
Today, Mr. Hendrix advised that in order to avoid the filing of arbitration petitions on Friday, it would be necessary for NOW Communications to sign a resale agreement, agreeing to the O S S charges and other terms of the contract. He also advised the negotiations would begin next week for a discount arrangement but would give no assurance as to the terms of the discount arrangement, the economic affect or the legal affect of the discount. After discussion with the client, it is obvious that the client cannot sign a contract containing terms and provisions which are challenged and which are adverse to the client's interest and which give no assurance that a subsequent negotiation will result in a proper solution. It is certainly not my client's intention or desire to invoke provision of arbitration. To the contrary, it is the client's sincere belief that both parties will be best served by a short delay, giving the intended negotiations a chance for success.

Now Communications cannot and will not sign a contract without having in place a negotiated agreement that allows economic survival, compliance with the law and reasonable contract terms.

I will be available tomorrow and Friday to discuss this matter if you so desire.

Cordially,

INGRAM & ASSOCIATES

  
Carroll H. Ingram

CHI/jh

xc:

Mr. Larry Seat  
Mr. Charlie McGuffee  
Jim Menge, Esquire  
Jennifer I. Wilkinson, Esquire  
Ms. Page Miller  
Mr. Jerry D. Hendrix



**Stephen M. Kilmacek**  
*General Attorney*

**BellSouth Telecommunications, Inc.**  
Legal Department - Suite 4300  
675 West Peachtree Street, N.E.  
Atlanta, Georgia 30375-0001  
Telephone: 404-335-0780  
Facsimile: 404-658-9022

February 24, 2000

**VIA FACSIMILE (601) 261-1393  
And VIA FIRST CLASS MAIL**

Carroll H. Ingram, Esq.  
Ingram & Associates  
211 South 29<sup>th</sup> Avenue  
Hattiesburg, MS 39404-5039

RE: Resale Negotiations

Dear Carroll:

Thank you for your letters of February 22 and 23. I apologize for not getting back with you sooner, but I was out of town both days. BellSouth understands and appreciates your request for an extension. However, in light of the current status of negotiations, and in particular, the apparent impasse on certain provisions in the Terms and Conditions Section of the Agreement, it appears an arbitration is inevitable. Consequently, we do not believe any further extension is appropriate.

Notwithstanding the foregoing, BellSouth intends to continue to negotiate with NOW Communications after the initiation of the arbitration proceedings. It is BellSouth's sincere desire to reduce the number of issues in the arbitration to as few as possible.

Furthermore, as discussed with Jerry Hendrix, upon the execution of a resale agreement, BellSouth might be willing to enter into negotiations for a volume and term discount over and above the current wholesale discount. Such a volume and term discount exceeds BellSouth's obligations to NOW under Section 251 of the Telecommunications Act, and thus, BellSouth will not enter into such negotiations until after the resale agreement is executed.

**EXHIBIT "G"**

Carroll H. Ingram  
February 24, 2000  
Page 2

I trust the foregoing adequately addresses the concerns raised in your February 22 and 23 letters. If not, please feel free to call.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Klimacek", written over a horizontal line.

Stephen M. Klimacek

SMK:fm

Cc: Jerry Hendrix  
Thomas B. Alexander, Esq.



## **AGREEMENT**

**THIS AGREEMENT** is made by and between BellSouth Telecommunications, Inc., (“BellSouth”), a Georgia corporation, and NOW Communications, Inc. (“NOW”), a Mississippi corporation, and shall be deemed effective as of \_\_\_\_\_. This Agreement may refer to either BellSouth or NOW or both as a “Party” or “Parties.”

## **WITNESSETH**

WHEREAS, BellSouth is a local exchange telecommunications company authorized to provide telecommunications services in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee; and

WHEREAS, NOW is or seeks to become an alternative local exchange telecommunications company (“CLEC”) authorized to provide telecommunications services in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee; and

WHEREAS, NOW has acquired the assets of Tel-Link and the established Tel-Link accounts will be subject to the provisions of this Agreement. Such Tel-Link accounts shall retain the Tel-Link Operating Company Number (OCN).

WHEREAS, the Parties wish to resell BellSouth’s telecommunications services and/or interconnect their facilities, purchase network elements and other services, and exchange traffic pursuant to sections 251 and 252 of the Telecommunications Act of 1996 (“the Act”).

**NOW THEREFORE**, in consideration of the mutual agreements contained herein, BellSouth and NOW agree as follows:

### **1. Purpose**

The resale, access and interconnection obligations contained herein enable NOW to provide telephone exchange service to residential and business subscribers within the territory of BellSouth. The Parties agree that NOW will not be considered to have offered telecommunications services to the public in any state within BellSouth’s region until such time as it has ordered services for resale or interconnection facilities for the purposes of providing business and/or residential local exchange service to customers.



**2. Term of the Agreement**

- 2.1 The term of this Agreement shall be two years, beginning on the date of execution and shall apply to the state(s) of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee. If as of the expiration of this Agreement, a Subsequent Agreement (as defined in Section 2.2 below) has not been executed by the Parties, this Agreement shall continue on a month-to-month basis while a Subsequent Agreement is being negotiated. The Parties' rights and obligations with respect to this Agreement after expiration shall be as set forth in Section 2.4 below.
- 2.2 The Parties agree that by no later than one hundred and eighty (180) days prior to the expiration of this Agreement, they shall commence negotiations with regard to the terms, conditions and prices of resale and/or local interconnection to be effective beginning on the expiration date of this Agreement ("Subsequent Agreement").
- 2.3 If, within one hundred and thirty-five (135) days of commencing the negotiation referred to in Section 2.2 above, the Parties are unable to satisfactorily negotiate new resale and/or local interconnection terms, conditions and prices, either Party may petition the Commission to establish appropriate local interconnection and/or resale arrangements pursuant to 47 U.S.C. 252. The Parties further agree that in the event the Commission does not issue its order prior to the expiration date of this Agreement, or if the Parties continue beyond the expiration date of this Agreement to negotiate the local interconnection and/or resale arrangements without Commission intervention, the terms, conditions and prices ultimately ordered by the Commission, or negotiated by the Parties, will be effective retroactive to the day following the expiration date of this Agreement.
- 2.4 Notwithstanding the foregoing, in the event that as of the date of expiration of this Agreement and conversion of this Agreement to a month-to-month term, the Parties have not entered into a Subsequent Agreement and either no arbitration proceeding has been filed in accordance with Section 2.3 above, or the Parties have not mutually agreed (where permissible) to extend the arbitration window for petitioning the applicable Commission(s) for resolution of those terms upon which the Parties have not agreed, then either Party may terminate this Agreement upon sixty (60) days notice to the other Party. In the event that BellSouth terminates this Agreement as provided above, BellSouth shall continue to offer services to NOW pursuant to the terms, conditions and rates set forth in BellSouth's Statement of Generally Available Terms (SGAT) to the extent an SGAT has been approved by the applicable Commission(s). If any state Commission has not approved a BellSouth SGAT, then upon BellSouth's termination of this Agreement as provided herein, BellSouth will continue to provide services to NOW pursuant to BellSouth's then current standard interconnection agreement. In the event that the SGAT or BellSouth's standard interconnection agreement becomes effective as between the Parties, the Parties

may continue to negotiate a Subsequent Agreement, and the terms of such Subsequent Agreement shall be effective retroactive to the day following expiration of this Agreement.

**3. Ordering Procedures**

- 3.1 NOW shall provide BellSouth its Carrier Identification Code (CIC), Operating Company Number (OCN), Group Access Code (GAC) and Access Customer Name and Address (ACNA) code as applicable prior to placing its first order.
- 3.2 The Parties agree to adhere to the BellSouth Local Interconnection and Facility Based Ordering Guide and Resale Ordering Guide, for the services ordered.
- 3.3 NOW shall pay charges for Operational Support Systems (OSS) as set forth in this Agreement in Attachment 1 and/or in Attachment 2, 3, 5 and 7 as applicable.

**4. Parity**

When NOW purchases, pursuant to Attachment 1 of this Agreement, telecommunications services from BellSouth for the purposes of resale to end users, BellSouth shall provide said services so that the services are equal in quality, subject to the same conditions, and provided within the same provisioning time intervals that BellSouth provides to its affiliates, subsidiaries and end users.

**5. White Pages Listings**

BellSouth shall provide NOW and their customers access to white pages directory listings under the following terms:

- 5.1 Listings. NOW shall provide all new, changed and deleted listings on a timely basis and BellSouth or its agent will include NOW residential and business customer listings in the appropriate White Pages (residential and business) or alphabetical directories. Directory listings will make no distinction between NOW and BellSouth subscribers.
- 5.2 Rates. Subscriber primary listing information in the White Pages shall be provided at no charge to NOW or its subscribers and NOW will provide subscriber listing information to BellSouth at no charge.
- 5.3 Procedures for Submitting NOW Subscriber Information. BellSouth will provide to NOW a magnetic tape or computer disk containing the proper format for submitting subscriber listings. NOW will be required to provide BellSouth with directory listings and daily updates to those listings, including new, changed, and deleted listings, on a magnetic tape, computer disk, or other mutually agreed upon means. These procedures are detailed in BellSouth's Local Interconnection and Facility Based Ordering Guide.

- 5.4 Unlisted/Non-Published Subscribers. NOW will be required to provide to BellSouth the names, addresses and telephone numbers of all NOW customers that wish to be omitted from directories.
- 5.5 Inclusion of NOW Customers in Directory Assistance Database. BellSouth will include and maintain NOW subscriber listings in BellSouth's Directory Assistance databases at no charge and NOW shall provide such Directory Assistance listings at no charge. BellSouth and NOW will formulate appropriate procedures regarding lead time, timeliness, format and content of listing information.
- 5.6 Listing Information Confidentiality. BellSouth will accord NOW's directory listing information the same level of confidentiality that BellSouth accords its own directory listing information, and BellSouth shall limit access to NOW's customer proprietary confidential directory information to those BellSouth employees who are involved in the preparation of listings.
- 5.7 Optional Listings. Additional listings and optional listings will be offered by BellSouth at tariffed rates as set forth in the General Subscriber Services Tariff.
- 5.8 Delivery. BellSouth or its agent shall deliver White Pages directories to NOW subscribers at no charge.
- 6. Bona Fide Request/New Business Request Process for Further Unbundling**
- If NOW is a facilities based provider or a facilities based and resale provider, this section shall apply. BellSouth shall, upon request of NOW, provide to NOW access to its network elements at any technically feasible point for the provision of NOW's telecommunications service where such access is necessary and failure to provide access would impair the ability of NOW to provide services that it seeks to offer. Any request by NOW for access to a network element, interconnection option, or for the provisioning of any service or product that is not already available shall be treated as a Bona Fide Request/New Business Request, and shall be submitted to BellSouth pursuant to the Bona Fide Request/New Business Request process set forth following.
- 6.1 A Bona Fide Request/New Business Request shall be submitted in writing to NOW's Account Manager by NOW and shall specifically identify the requested service date, technical requirements, space requirements and/or such specifications that clearly define the request such that BellSouth has sufficient information to analyze and prepare a response. Such a request also shall include NOW's designation of the request as being (i) pursuant to the Telecommunications Act of 1996 or (ii) pursuant to the needs of the business.

**7. Court Ordered Requests for Call Detail Records and Other Subscriber Information**

To the extent technically feasible, BellSouth maintains call detail records for NOW end users for limited time periods and can respond to subpoenas and court ordered requests for this information. BellSouth shall maintain such information for NOW end users for the same length of time it maintains such information for its own end users.

7.1 NOW agrees that BellSouth will respond to subpoenas and court ordered requests delivered directly to BellSouth for the purpose of providing call detail records when the targeted telephone numbers belong to NOW end users. Billing for such requests will be generated by BellSouth and directed to the law enforcement agency initiating the request.

7.2 Where BellSouth is providing to NOW telecommunications services for resale or providing to NOW the local switching function, then NOW agrees that in those cases where NOW receives subpoenas or court ordered requests regarding targeted telephone numbers belonging to NOW end users, if NOW does not have the requested information, NOW will advise the law enforcement agency initiating the request to redirect the subpoena or court ordered request to BellSouth. Where the request has been forwarded to BellSouth, billing for call detail information will be generated by BellSouth and directed to the law enforcement agency initiating the request.

7.3 In all other instances, NOW will provide NOW end user and/or other customer information that is available to NOW in response to subpoenas and court orders for their own end user records. When BellSouth receives subpoenas or court ordered requests regarding targeted telephone numbers belonging to NOW end users, BellSouth will advise the law enforcement agency initiating the request to redirect the subpoena or court ordered request to NOW.

**8. Liability and Indemnification**

8.1 BellSouth Liability. BellSouth shall take financial responsibility for its own actions in causing, or its lack of action in preventing, unbillable or uncollectible NOW revenues.

8.2 NOW Liability. In the event that NOW consists of two (2) or more separate entities as set forth in the preamble to this Agreement, all such entities shall be jointly and severally liable for the obligations of NOW under this Agreement.

8.3 Liability for Acts or Omissions of Third Parties. Neither BellSouth nor NOW shall be liable for any act or omission of another telecommunications company providing a portion of the services provided under this Agreement.

8.4 Limitation of Liability.

8.4.1 Each Party's liability to the other for any loss, cost, claim, injury or liability or expense, including reasonable attorney's fees relating to or arising out of any negligent act or omission in its performance of this Agreement whether in contract or in tort, shall be limited to a credit for the actual cost of the services or functions not performed or improperly performed.

8.4.2 Limitations in Tariffs. A Party may, in its sole discretion, provide in its tariffs and contracts with its Customer and third parties that relate to any service, product or function provided or contemplated under this Agreement, that to the maximum extent permitted by Applicable Law, such Party shall not be liable to Customer or third Party for (i) any Loss relating to or arising out of this Agreement, whether in contract, tort or otherwise, that exceeds the amount such Party would have charged that applicable person for the service, product or function that gave rise to such Loss and (ii) Consequential Damages. To the extent that a Party elects not to place in its tariffs or contracts such limitations of liability, and the other Party incurs a Loss as a result thereof, such Party shall indemnify and reimburse the other Party for that portion of the Loss that would have been limited had the first Party included in its tariffs and contracts the limitations of liability that such other Party included in its own tariffs at the time of such Loss.

8.4.3 Neither BellSouth nor NOW shall be liable for damages to the other's terminal location, POI or other company's customers' premises resulting from the furnishing of a service, including, but not limited to, the installation and removal of equipment or associated wiring, except to the extent caused by a company's negligence or willful misconduct or by a company's failure to properly ground a local loop after disconnection.

8.4.4 Under no circumstance shall a Party be responsible or liable for indirect, incidental, or consequential damages, including, but not limited to, economic loss or lost business or profits, damages arising from the use or performance of equipment or software, or the loss of use of software or equipment, or accessories attached thereto, delay, error, or loss of data. In connection with this limitation of liability, each Party recognizes that the other Party may, from time to time, provide advice, make recommendations, or supply other analyses related to the Services, or facilities described in this Agreement, and, while each Party shall use diligent efforts in this regard, the Parties acknowledge and agree that this limitation of liability shall apply to provision of such advice, recommendations, and analyses.

8.5 Indemnification for Certain Claims. The Party providing services hereunder, its affiliates and its parent company, shall be indemnified, defended and held harmless by the Party receiving services hereunder against any claim, loss or damage arising from the receiving company's use of the services provided under this Agreement pertaining to (1) claims for libel, slander or invasion of privacy

arising from the content of the receiving company's own communications, or (2) any claim, loss or damage claimed by the customer of the Party receiving services arising from such company's use or reliance on the providing company's services, actions, duties, or obligations arising out of this Agreement.

- 8.6 **Disclaimer.** EXCEPT AS SPECIFICALLY PROVIDED TO THE CONTRARY IN THIS AGREEMENT, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES TO THE OTHER PARTY CONCERNING THE SPECIFIC QUALITY OF ANY SERVICES, OR FACILITIES PROVIDED UNDER THIS AGREEMENT. THE PARTIES DISCLAIM, WITHOUT LIMITATION, ANY WARRANTY OR GUARANTEE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR FROM USAGES OF TRADE.

9. **Intellectual Property Rights and Indemnification**

- 9.1 **No License.** No patent, copyright, trademark or other proprietary right is licensed, granted or otherwise transferred by this Agreement. NOW is strictly prohibited from any use, including but not limited to in sales, in marketing or advertising of telecommunications services, of any BellSouth name, service mark or trademark.

- 9.2 **Ownership of Intellectual Property.** Any intellectual property which originates from or is developed by a Party shall remain in the exclusive ownership of that Party. Except for a limited license to use patents or copyrights to the extent necessary for the Parties to use any facilities or equipment (including software) or to receive any service solely as provided under this Agreement, no license in patent, copyright, trademark or trade secret, or other proprietary or intellectual property right now or hereafter owned, controlled or licensable by a Party, is granted to the other Party or shall be implied or arise by estoppel. It is the responsibility of each Party to ensure at no additional cost to the other Party that it has obtained any necessary licenses in relation to intellectual property of third Parties used in its network that may be required to enable the other Party to use any facilities or equipment (including software), to receive any service, or to perform its respective obligations under this Agreement.

- 9.3 **Indemnification.** The Party providing a service pursuant to this Agreement will defend the Party receiving such service or data provided as a result of such service against claims of infringement arising solely from the use by the receiving Party of such service and will indemnify the receiving Party for any damages awarded based solely on such claims in accordance with Section 8 of this Agreement.

- 9.4 **Claim of Infringement.** In the event that use of any facilities or equipment (including software), becomes, or in reasonable judgment of the Party who owns the affected network is likely to become, the subject of a claim, action, suit, or

proceeding based on intellectual property infringement, then said Party shall promptly and at its sole expense, but subject to the limitations of liability set forth below:

- 9.4.1 modify or replace the applicable facilities or equipment (including software) while maintaining form and function, or
- 9.4.2 obtain a license sufficient to allow such use to continue.
- 9.4.3 In the event 9.4.1 or 9.4.2 are commercially unreasonable, then said Party may, terminate, upon reasonable notice, this contract with respect to use of, or services provided through use of, the affected facilities or equipment (including software), but solely to the extent required to avoid the infringement claim.
- 9.5 **Exception to Obligations.** Neither Party's obligations under this Section shall apply to the extent the infringement is caused by: (i) modification of the facilities or equipment (including software) by the indemnitee; (ii) use by the indemnitee of the facilities or equipment (including software) in combination with equipment or facilities (including software) not provided or authorized by the indemnitor provided the facilities or equipment (including software) would not be infringing if used alone; (iii) conformance to specifications of the indemnitee which would necessarily result in infringement; or (iv) continued use by the indemnitee of the affected facilities or equipment (including software) after being placed on notice to discontinue use as set forth herein.
- 9.6 **Exclusive Remedy.** The foregoing shall constitute the Parties' sole and exclusive remedies and obligations with respect to a third party claim of intellectual property infringement arising out of the conduct of business under this Agreement.

## 10. Treatment of Proprietary and Confidential Information

- 10.1 **Confidential Information.** It may be necessary for BellSouth and NOW to provide each other with certain confidential information, including trade secret information, including but not limited to, technical and business plans, technical information, proposals, specifications, drawings, procedures, customer account data, call detail records and like information (hereinafter collectively referred to as "Information"). All Information shall be in writing or other tangible form and clearly marked with a confidential, private or proprietary legend and that the Information will be returned to the owner within a reasonable time. The Information shall not be copied or reproduced in any form. BellSouth and NOW shall receive such Information and not disclose such Information. BellSouth and NOW shall protect the Information received from distribution, disclosure or dissemination to anyone except employees of BellSouth and NOW with a need to know such Information and which employees agree to be bound by the terms of

this Section. BellSouth and NOW will use the same standard of care to protect Information received as they would use to protect their own confidential and proprietary Information.

- 10.2 Exception to Obligation. Notwithstanding the foregoing, there will be no obligation on BellSouth or NOW to protect any portion of the Information that is: (1) made publicly available by the owner of the Information or lawfully disclosed by a Party other than BellSouth or NOW; (2) lawfully obtained from any source other than the owner of the Information; or (3) previously known to the receiving Party without an obligation to keep it confidential.

**11. Assignments**

Any assignment by either Party to any non-affiliated entity of any right, obligation or duty, or of any other interest hereunder, in whole or in part, without the prior written consent of the other Party shall be void. A Party may assign this Agreement or any right, obligation, duty or other interest hereunder to an Affiliate company of the Party without the consent of the other Party. All obligations and duties of any Party under this Agreement shall be binding on all successors in interest and assigns of such Party. No assignment or delegation hereof shall relieve the assignor of its obligations under this Agreement in the event that the assignee fails to perform such obligations.

**12. Resolution of Disputes**

Except as otherwise stated in this Agreement, the Parties agree that if any dispute arises as to the interpretation of any provision of this Agreement or as to the proper implementation of this Agreement, either Party may petition the Commission for a resolution of the dispute. However, each Party reserves any rights it may have to seek judicial review of any ruling made by the Commission concerning this Agreement. Each Party also reserves all rights to seek a court of competent jurisdiction to hear any tort or extra-contractual claims which may arise.

**13. Taxes**

- 13.1 Definition. For purposes of this Section, the terms "taxes" and "fees" shall include but not be limited to federal, state or local sales, use, excise, gross receipts or other taxes or tax-like fees of whatever nature and however designated (including tariff surcharges and any fees, charges or other payments, contractual or otherwise, for the use of public streets or rights of way, whether designated as franchise fees or otherwise) imposed, or sought to be imposed, on or with respect to the services furnished hereunder or measured by the charges or payments therefore, excluding any taxes levied on income.



**13.2 Taxes and Fees Imposed Directly On Either Providing Party or Purchasing Party.**

**13.2.1** Taxes and fees imposed on the providing Party, which are not permitted or required to be passed on by the providing Party to its customer, shall be borne and paid by the providing Party.

**13.2.2** Taxes and fees imposed on the purchasing Party, which are not required to be collected and/or remitted by the providing Party, shall be borne and paid by the purchasing Party.

**13.3 Taxes and Fees Imposed on Purchasing Party But Collected And Remitted By Providing Party.**

**13.3.1** Taxes and fees imposed on the purchasing Party shall be borne by the purchasing Party, even if the obligation to collect and/or remit such taxes or fees is placed on the providing Party.

**13.3.2** To the extent permitted by applicable law, any such taxes and/or fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing Party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing Party at the time that the respective service is billed.

**13.3.3** If the purchasing Party determines that in its opinion any such taxes or fees are not payable, the providing Party shall not bill such taxes or fees to the purchasing Party if the purchasing Party provides written certification, reasonably satisfactory to the providing Party, stating that it is exempt or otherwise not subject to the tax or fee, setting forth the basis therefor, and satisfying any other requirements under applicable law. If any authority seeks to collect any such tax or fee that the purchasing Party has determined and certified not to be payable, or any such tax or fee that was not billed by the providing Party, the purchasing Party may contest the same in good faith, at its own expense. In any such contest, the purchasing Party shall promptly furnish the providing Party with copies of all filings in any proceeding, protest, or legal challenge, all rulings issued in connection therewith, and all correspondence between the purchasing Party and the taxing authority.

**13.3.4** In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing Party during the pendency of such contest, the purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.

**13.3.5** If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing Party shall pay such additional amount, including any interest and penalties thereon.

- 13.3.6 Notwithstanding any provision to the contrary, the purchasing Party shall protect, indemnify and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any such tax or fee, interest or penalties thereon, or other charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the providing Party in connection with any claim for or contest of any such tax or fee.
- 13.3.7 Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a taxing authority; such notice to be provided, if possible, at least ten (10) days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) days after receipt of such assessment, proposed assessment or claim.
- 13.4 Taxes and Fees Imposed on Providing Party But Passed On To Purchasing Party.
- 13.4.1 Taxes and fees imposed on the providing Party, which are permitted or required to be passed on by the providing Party to its customer, shall be borne by the purchasing Party.
- 13.4.2 To the extent permitted by applicable law, any such taxes and/or fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing Party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing Party at the time that the respective service is billed.
- 13.4.3 If the purchasing Party disagrees with the providing Party's determination as to the application or basis for any such tax or fee, the Parties shall consult with respect to the imposition and billing of such tax or fee. Notwithstanding the foregoing, the providing Party shall retain ultimate responsibility for determining whether and to what extent any such taxes or fees are applicable, and the purchasing Party shall abide by such determination and pay such taxes or fees to the providing Party. The providing Party shall further retain ultimate responsibility for determining whether and how to contest the imposition of such taxes and fees; provided, however, that any such contest undertaken at the request of the purchasing Party shall be at the purchasing Party's expense.
- 13.4.4 In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing Party during the pendency of such contest, the purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.
- 13.4.5 If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing Party shall pay such additional amount, including any interest and penalties thereon.

13.4.6 Notwithstanding any provision to the contrary, the purchasing Party shall protect indemnify and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any such tax or fee, interest or penalties thereon, or other reasonable charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the providing Party in connection with any claim for or contest of any such tax or fee.

13.4.7 Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a taxing authority; such notice to be provided, if possible, at least ten (10) days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) days after receipt of such assessment, proposed assessment or claim.

13.5 Mutual Cooperation. In any contest of a tax or fee by one Party, the other Party shall cooperate fully by providing records, testimony and such additional information or assistance as may reasonably be necessary to pursue the contest. Further, the other Party shall be reimbursed for any reasonable and necessary out-of-pocket copying and travel expenses incurred in assisting in such contest.

#### 14. Force Majeure

In the event performance of this Agreement, or any obligation hereunder, is either directly or indirectly prevented, restricted, or interfered with by reason of fire, flood, earthquake or like acts of God, wars, revolution, civil commotion, explosion, acts of public enemy, embargo, acts of the government in its sovereign capacity, labor difficulties, including without limitation, strikes, slowdowns, picketing, or boycotts, unavailability of equipment from vendor, changes requested by Customer, or any other circumstances beyond the reasonable control and without the fault or negligence of the Party affected, the Party affected, upon giving prompt notice to the other Party, shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction, or interference (and the other Party shall likewise be excused from performance of its obligations on a day-to-day basis until the delay, restriction or interference has ceased); provided however, that the Party so affected shall use diligent efforts to avoid or remove such causes of non-performance and both Parties shall proceed whenever such causes are removed or cease.

#### 15. Year 2000 Compliance

Each Party warrants that it has implemented a program the goal of which is to ensure that all software, hardware and related materials (collectively called "Systems") delivered, connected with BellSouth or supplied in the furtherance of the terms and conditions specified in this Agreement: (i) will record, store, process and display calendar dates falling on or after January 1, 2000, in the same

manner, and with the same functionality as such software records, stores, processes and calendar dates falling on or before December 31, 1999; and (ii) shall include without limitation date data century recognition, calculations that accommodate same century and multicentury formulas and date values, and date data interface values that reflect the century.

**16. Modification of Agreement**

- 16.1 BellSouth shall make available, pursuant to 47 USC § 252 and the FCC rules and regulations regarding such availability, to NOW any interconnection, service, or network element provided under any other agreement filed and approved pursuant to 47 USC § 252. The Parties shall adopt all rates, terms and conditions concerning such other interconnection, service or network element and any other rates, terms and conditions that are interrelated or were negotiated in exchange for or in conjunction with the interconnection, service or network element being adopted. The adopted interconnection, service, or network element and agreement shall apply to the same states as such other agreement and for the identical term of such other agreement.
- 16.2 If NOW changes its name or makes changes to its company structure or identity due to a merger, acquisition, transfer or any other reason, it is the responsibility of NOW to notify BellSouth of said change and request that an amendment to this Agreement, if necessary, be executed to reflect said change.
- 16.3 No modification, amendment, supplement to, or waiver of the Agreement or any of its provisions shall be effective and binding upon the Parties unless it is made in writing and duly signed by the Parties.
- 16.4 Execution of this Agreement by either Party does not confirm or infer that the executing Party agrees with any decision(s) issued pursuant to the Telecommunications Act of 1996 and the consequences of those decisions on specific language in this Agreement. Neither Party waives its rights to appeal or otherwise challenge any such decision(s) and each Party reserves all of its rights to pursue any and all legal and/or equitable remedies, including appeals of any such decision(s).
- 16.5 In the event that any final and nonappealable legislative, regulatory, judicial or other legal action materially affects any material terms of this Agreement, or the ability of NOW or BellSouth to perform any material terms of this Agreement, NOW or BellSouth may, on thirty (30) days' written notice require that such terms be renegotiated, and the Parties shall renegotiate in good faith such mutually acceptable new terms as may be required. In the event that such new terms are not renegotiated within ninety (90) days after such notice, the Dispute shall be referred to the Dispute Resolution procedure set forth in Section 12.

- 16.6 If any provision of this Agreement, or the application of such provision to either Party or circumstance, shall be held invalid, the remainder of the Agreement, or the application of any such provision to the Parties or circumstances other than those to which it is held invalid, shall not be effective thereby, provided that the Parties shall attempt to reformulate such invalid provision to give effect to such portions thereof as may be valid without defeating the intent of such provision.

**17. Waivers**

A failure or delay of either Party to enforce any of the provisions hereof, to exercise any option which is herein provided, or to require performance of any of the provisions hereof shall in no way be construed to be a waiver of such provisions or options, and each Party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Agreement.

**18. Governing Law**

This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Georgia, without regard to its conflict of laws principles.

**19. Parties Unrelated to Each Other**

The Parties to this Agreement are unrelated to each other.

**20. Notices**

- 20.1 Every notice, consent, approval, or other communications required or contemplated by this Agreement shall be in writing and shall be delivered in person or given by postage prepaid mail, address to:

**BellSouth Telecommunications, Inc.**

CLEC Account Team  
9<sup>th</sup> Floor  
600 North 19<sup>th</sup> Street  
Birmingham, Alabama 35203

and

General Attorney - COU  
Suite 4300  
675 W. Peachtree St.  
Atlanta, GA 30375

**NOW Communications, Inc.**

Larry Seab  
713 Country Place Drive  
Jackson, MS 39208  
(601) 949-7500  
FAX: (601) 969-6656

or at such other address as the intended recipient previously shall have designated by written notice to the other Party.

- 20.2 Where specifically required, notices shall be by certified or registered mail. Unless otherwise provided in this Agreement, notice by mail shall be effective on the date it is officially recorded as delivered by return receipt or equivalent, and in the absence of such record of delivery, it shall be presumed to have been delivered the fifth day, or next business day after the fifth day, after it was deposited in the mails.

**21. Rule of Construction**

No rule of construction requiring interpretation against the drafting Party hereof shall apply in the interpretation of this Agreement.

**22. Headings of No Force or Effect**

The headings of Articles and Sections of this Agreement are for convenience of reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this Agreement.

**23. Multiple Counterparts**

This Agreement may be executed multiple counterparts, each of which shall be deemed an original, but all of which shall together constitute but one and the same document.

**24. Implementation of Agreement**

If NOW is a facilities based provider or a facilities based and resale provider, this section shall apply. Within 60 days of the execution of this Agreement, the Parties will adopt a schedule for the implementation of the Agreement. The schedule shall state with specificity time frames for submission of including but not limited to, network design, interconnection points, collocation arrangement requests, pre-sales testing and full operational time frames for the business and residential markets. An implementation template to be used for the implementation schedule is contained in Attachment 10 of this Agreement.

**25. Filing of Agreement**

Upon execution of this Agreement it shall be filed with the appropriate state regulatory agency pursuant to the requirements of Section 252 of the Act. If the regulatory agency imposes any filing or public interest notice fees regarding the filing or approval of the Agreement, NOW shall be responsible for publishing the required notice and the publication and/or notice costs shall be borne by NOW.

**26. Entire Agreement**

This Agreement and its Attachments, incorporated herein by this reference, sets forth the entire understanding and supersedes prior Agreements between the Parties relating to the subject matter contained herein and merges all prior discussions between them, and neither Party shall be bound by any definition, condition, provision, representation, warranty, covenant or promise other than as expressly stated in this Agreement or as is contemporaneously or subsequently set forth in writing and executed by a duly authorized officer or representative of the Party to be bound thereby.

**This Agreement may include attachments with provisions for the following services:**

Network Elements and Other Services  
Local Interconnection  
Resale  
Collocation

**The following services are included as options for purchase by NOW. NOW shall elect said services by written request to its Account Manager if applicable.**

Optional Daily Usage File (ODUF)  
Enhanced Optional Daily Usage File (EODUF)  
Access Daily Usage File (ADUF)  
Line Information Database (LIDB) Storage  
Centralized Message Distribution Service (CMD5)  
Calling Name (CNAM)

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year above first written.

**BellSouth Telecommunications, Inc.**

**NOW Communications, Inc.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Jerry Hendrix

Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Senior Director

Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



## Definitions

**Affiliate** is defined as a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term “own” means to own an equity interest (or equivalent thereof) of more than 10 percent.

**Centralized Message Distribution System** is the Telcordia (formerly BellCore) administered national system, based in Kansas City, Missouri, used to exchange Exchange Message Interface (EMI) formatted data among host companies.

**Commission** is defined as the appropriate regulatory agency in each of BellSouth’s nine state region, Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.

**Daily Usage File** is the compilation of messages or copies of messages in standard Exchange Message Interface (EMI) format exchanged from BellSouth to a CLEC.

**Exchange Message Interface** is the nationally administered standard format for the exchange of data among the Exchange Carriers within the telecommunications industry.

**Information Service** means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

**Intercompany Settlements (ICS)** is the revenue associated with charges billed by a company other than the company in whose service area such charges were incurred. ICS on a national level includes third number and credit card calls and is administered by Telcordia (formerly BellCore)’s Calling Card and Third Number Settlement System (CATS). Included is traffic that originates in one Regional Bell Operating Company’s (RBOC) territory and bills in another RBOC’s territory.

**Intermediary function** is defined as the delivery of traffic from NOW; a CLEC other than NOW or another telecommunications carrier through the network of BellSouth or NOW to an end user of NOW; a CLEC other than NOW or another telecommunications carrier.

**Local Interconnection** is defined as 1) the delivery of local traffic to be terminated on each Party’s local network so that end users of either Party have the ability to reach end users of the other Party without the use of any access code or substantial delay in the processing of the call; 2) the LEC network features, functions, and capabilities set forth in this Agreement; and 3) Service Provider Number Portability sometimes referred to as temporary telephone number portability to be implemented pursuant to the terms of this Agreement.

**Local Traffic** is defined as any telephone call that originates in one exchange and terminates in either the same exchange, or other local calling area associated with the originating exchange as defined and specified in Section A3 of BellSouth's General Subscriber Service Tariff. As clarification of this definition and for reciprocal transport and termination compensation, Local Traffic does not include traffic that originates from or is directed to or through an enhanced service provider or information service provider. As further clarification, Local Traffic does not include calls that do not transmit information of the user's choosing. In any event, neither Party will pay reciprocal compensation to the other if the "traffic" to which such reciprocal compensation would otherwise apply was generated, in whole or in part, for the purpose of creating an obligation on the part of the originating carrier to pay reciprocal compensation for such traffic.

**Message Distribution** is routing determination and subsequent delivery of message data from one company to another. Also included is the interface function with CMDS, where appropriate.

**Multiple Exchange Carrier Access Billing ("MECAB")** means the document prepared by the Billing Committee of the Ordering and Billing Forum ("OBF"), which functions under the auspices of the Carrier Liaison Committee of the Alliance for Telecommunications Industry Solutions ("ATIS") and by Telcordia (formerly BellCore) as Special Report SR-BDS-000983, Containing the recommended guidelines for the billing of Exchange Service access provided by two or more LECs and/or CLECs or by one LEC in two or more states within a single LATA.

**Network Element** is defined to mean a facility or equipment used in the provision of a telecommunications service. Such term may include, but is not limited to, features, functions, and capabilities that are provided by means of such facility or equipment, including but not limited to, subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service. BellSouth offers access to the Network Elements, unbundled loops; network interface device; sub-loop elements; local switching; transport; tandem switching; operator systems; signaling; access to call-related databases; dark fiber as set forth in Attachment 2 of this Agreement.

**Non-Intercompany Settlement System (NICS)** is the Telcordia (formerly BellCore) system that calculates non-intercompany settlements amounts due from one company to another within the same RBOC region. It includes credit card, third number and collect messages.

**Percent of Interstate Usage (PIU)** is defined as a factor to be applied to terminating access services minutes of use to obtain those minutes that should be rated as interstate access services minutes of use. The numerator includes all interstate "non-intermediary" minutes of use, including interstate minutes of use that are forwarded due to service provider number portability less any interstate minutes of use for Terminating Party Pays services, such as 800 Services. The denominator includes all "non-intermediary", local, interstate, intrastate, toll and access minutes of use adjusted for service provider number portability less all minutes attributable to terminating Party pays services.

**Percent Local Usage (PLU)** is defined as a factor to be applied to intrastate terminating minutes of use. The numerator shall include all “non-intermediary” local minutes of use adjusted for those minutes of use that only apply local due to Service Provider Number Portability. The denominator is the total intrastate minutes of use including local, intrastate toll, and access, adjusted for Service Provider Number Portability less intrastate terminating Party pays minutes of use.

**Revenue Accounting Office (RAO) Status Company** is a local exchange company/alternate local exchange company that has been assigned a unique RAO code. Message data exchanged among RAO status companies is grouped (i.e. packed) according to From/To/Bill RAO combinations.

**Service Control Points (“SCPs”)** are defined as databases that store information and have the ability to manipulate data required to offer particular services.

**Signal Transfer Points (“STPs”)** are signaling message switches that interconnect Signaling Links to route signaling messages between switches and databases. STPs enable the exchange of Signaling System 7 (“SS7”) messages between switching elements, database elements and STPs. STPs provide access to various BellSouth and third party network elements such as local switching and databases.

**Signaling links** are dedicated transmission paths carrying signaling messages between carrier switches and signaling networks. Signal Link Transport is a set of two or four dedicated 56 kbps transmission paths between NOW designated Signaling Points of Interconnection that provide a diverse transmission path and cross connect to a BellSouth Signal Transfer Point.

**Telecommunications** means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

**Telecommunications Service** means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

**Telecommunications Act of 1996 (“Act”)** means Public Law 104-104 of the United States Congress effective February 8, 1996. The Act amended the Communications Act of 1934 (47, U.S.C. Section 1 et. seq.).

**Attachment 1**

**Resale**

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## **RESALE**

### **1. Discount Rates**

The rates pursuant by which NOW is to purchase services from BellSouth for resale shall be at a discount rate off of the retail rate for the telecommunications service. The discount rates shall be as set forth in Exhibit A, attached hereto and incorporated herein by this reference. Such discount shall reflect the costs avoided by BellSouth when selling a service for wholesale purposes.

### **2. Definition of Terms**

- 2.1 CUSTOMER OF RECORD means the entity responsible for placing application for service; requesting additions, rearrangements, maintenance or discontinuance of service; payment in full of charges incurred such as non-recurring, monthly recurring, toll, directory assistance, etc.
- 2.2 DEPOSIT means assurance provided by a customer in the form of cash, surety bond or bank letter of credit to be held by BellSouth.
- 2.3 END USER means the ultimate user of the telecommunications services.
- 2.4 END USER CUSTOMER LOCATION means the physical location of the premises where an end user makes use of the telecommunications services.
- 2.5 NEW SERVICES means functions, features or capabilities that are not currently offered by BellSouth. This includes packaging of existing services or combining a new function, feature or capability with an existing service.
- 2.6 OTHER/COMPETITIVE LOCAL EXCHANGE COMPANY (OLEC/CLEC) means a telephone company certificated by the public service commissions of BellSouth's franchised area to provide local exchange service within BellSouth's franchised area.
- 2.7 RESALE means an activity wherein a certificated CLEC, such as NOW subscribes to the telecommunications services of BellSouth and then reoffers those telecommunications services to the public (with or without "adding value").
- 2.8 RESALE SERVICE AREA means the area, as defined in a public service commission approved certificate of operation, within which a CLEC, such as NOW, may offer resold local exchange telecommunications service.

**3. General Provisions**

- 3.1 NOW may resell the tariffed local exchange and toll telecommunications services of BellSouth contained in the General Subscriber Service Tariff and Private Line Service Tariff subject to the terms, and conditions specifically set forth herein. Notwithstanding the foregoing, the exclusions and limitations on services available for resale will be as set forth in Exhibit B, attached hereto and incorporated herein by this reference.
- 3.2 All of the negotiated rates, terms and conditions set forth in this Attachment pertain to the resale of BellSouth's retail telecommunications services and other services specified in this Attachment. BellSouth shall make available telecommunications services for resale at the rates set forth in Exhibit A to this Agreement and subject to the exclusions and limitations set forth in Exhibit B to this Agreement. BellSouth does not however waive its rights to appeal or otherwise challenge any decision regarding resale that resulted in the discount rates contained in Exhibit A or the exclusions and limitations contained in Exhibit B. BellSouth reserves the right to pursue any and all legal and/or equitable remedies, including appeals of any decisions. If such appeals or challenges result in changes in the discount rates or exclusions and limitations, the parties agree that appropriate modifications to this Agreement will be made promptly to make its terms consistent with the outcome of the appeal.
- 3.3 NOW may purchase resale services from BellSouth for their own use in operating their business. The resale discount will apply to those services under the following conditions:
- 3.3.1 NOW must resell services to other end users.
- 3.3.2 NOW must order services through resale interfaces, i.e., the Local Carrier Service Center (LCSC) and/or appropriate Resale Account Teams pursuant to Section 3 of the General Terms and Conditions.
- 3.3.3 NOW cannot be an alternative local exchange telecommunications company for the single purpose of selling to themselves.
- 3.4 The provision of services by BellSouth to NOW does not constitute a joint undertaking for the furnishing of any service.
- 3.5 NOW will be the customer of record for all services purchased from BellSouth. Except as specified herein, BellSouth will take orders from, bill and expect payment from NOW for all services.

- 3.6 NOW will be BellSouth's single point of contact for all services purchased pursuant to this Agreement. BellSouth shall have no contact with the end user except to the extent provided for herein.
- 3.7 BellSouth will continue to bill the end user for any services that the end user specifies it wishes to receive directly from BellSouth.
- 3.8 BellSouth maintains the right to serve directly any end user within the service area of NOW. BellSouth will continue to directly market its own telecommunications products and services and in doing so may establish independent relationships with end users of NOW.
- 3.9 Neither Party shall interfere with the right of any person or entity to obtain service directly from the other Party.
- 3.10 Current telephone numbers may normally be retained by the end user. However, telephone numbers are the property of BellSouth and are assigned to the service furnished. NOW has no property right to the telephone number or any other call number designation associated with services furnished by BellSouth, and no right to the continuance of service through any particular central office. BellSouth reserves the right to change such numbers, or the central office designation associated with such numbers, or both, whenever BellSouth deems it necessary to do so in the conduct of its business.
- 3.11 For the purpose of the resale of BellSouth's telecommunications services by NOW, BellSouth will provide NOW with an on line access to telephone numbers for reservation on a first come first serve basis. Such reservations of telephone numbers, on a pre-ordering basis shall be for a period of nine (9) days. NOW acknowledges that there may be instances where there is a shortage of telephone numbers in a particular Common Language Location Identifier Code (CLLIC) and in such instances BellSouth may request that NOW cancel its reservations of numbers. NOW shall comply with such request.
- 3.12 Further, upon NOW's request, and for the purpose of the resale of BellSouth's telecommunications services by NOW, BellSouth will reserve up to 100 telephone numbers per CLLIC, for NOW's sole use. Such telephone number reservations shall be valid for ninety (90) days from the reservation date. NOW acknowledges that there may be instances where there is a shortage of telephone numbers in a particular CLLIC and in such instances BellSouth shall use its best efforts to reserve for a ninety (90) day period a sufficient quantity of NOW's reasonable need in that particular CLLIC.
- 3.13 BellSouth may provide any service or facility for which a charge is not established herein, as long as it is offered on the same terms to NOW.



- 3.14 Service is furnished subject to the condition that it will not be used for any unlawful purpose.
- 3.15 Service will be discontinued if any law enforcement agency advises that the service being used is in violation of the law.
- 3.16 BellSouth can refuse service when it has grounds to believe that service will be used in violation of the law.
- 3.17 BellSouth accepts no responsibility to any person for any unlawful act committed by NOW or its end users as part of providing service to NOW for purposes of resale or otherwise.
- 3.18 BellSouth will cooperate fully with law enforcement agencies with subpoenas and court orders for assistance with BellSouth's end users. Law enforcement agency subpoenas and court orders regarding end users of NOW will be directed to NOW. BellSouth will bill NOW for implementing any requests by law enforcement agencies regarding NOW end users.
- 3.19 The characteristics and methods of operation of any circuits, facilities or equipment provided by any person or entity other than BellSouth shall not:
  - 3.19.1 Interfere with or impair service over any facilities of BellSouth, its affiliates, or its connecting and concurring carriers involved in its service;
  - 3.19.2 Cause damage to BellSouth's plant;
  - 3.19.3 Impair the privacy of any communications; or
  - 3.19.4 Create hazards to any BellSouth employees or the public.
- 3.20 NOW assumes the responsibility of notifying BellSouth regarding less than standard operations with respect to services provided by NOW.
- 3.21 Facilities and/or equipment utilized by BellSouth to provide service to NOW remain the property of BellSouth.
- 3.22 White page directory listings will be provided in accordance with regulations set forth in Section A6 of the General Subscriber Services Tariff and will be available for resale.
- 3.23 BellSouth provides electronic access to customer record information. Access is provided through the Local Exchange Navigation System (LENS) and the Telecommunications Access Gateway (TAG). Customer Record Information includes but is not limited to, customer specific information in CRIS and RSAG. In addition,

NOW shall provide to BellSouth access to customer record information including electronic access where available. Otherwise, NOW shall provide paper copies of customer record information within a reasonable period of time upon request by BellSouth. Customer Record Information is equivalent to but not limited to the type of customer specific information contained in CRIS and RSAG. The Parties agree not to view, copy, or otherwise obtain access to the customer record information of any customer without that customer's permission, and further agrees that NOW and BellSouth will obtain access to customer record information only in strict compliance with applicable laws, rules, or regulations of the State in which the service is provided.

3.24 All costs incurred by BellSouth to develop and implement operational interfaces shall be recovered from Resellers who utilize the services. Charges for use of Operational Support Systems (OSS) shall be as set forth in Exhibit A of this Attachment.

3.25 Where available to BellSouth's end users, BellSouth shall provide the following telecommunications services at a discount to allow for voice mail services:

- Simplified Message Desk Interface - Enhanced ("SMDI-E")
- Simplified Message Desk Interface ("SMDI") Message Waiting Indicator ("MWI") stutter dialtone and message waiting light feature capabilities
- Call Forward on Busy/Don't Answer ("CF-B/DA")
- Call Forward on Busy ("CF/B")
- Call Forward Don't Answer ("CF/DA")

Further, BellSouth messaging services set forth in BellSouth's Messaging Service Information Package shall be made available for resale without the wholesale discount.

3.26 BellSouth's Inside Wire Maintenance Service Plans may be made available for resale at rates, terms and conditions as set forth by BellSouth and without the wholesale discount.

3.27 All costs incurred by BellSouth for providing services requested by NOW that are not covered in the BellSouth tariffs shall be recovered from NOW if NOW utilizes those services.

3.28 Recovery of charges associated with implementing Number Portability through monthly charges assessed to end users has been authorized by the FCC. This end user line charge will be billed to Resellers of BellSouth's telecommunications services and will be as filed in FCC No. 1. This charge will not be discounted.

**4. BellSouth's Provision of Services to NOW**

4.1 NOW agrees that its resale of BellSouth services shall be as follows:

4.1.1 The resale of telecommunications services shall be limited to users and uses conforming to the class of service restrictions.

4.1.2 Hotel and Hospital PBX services are the only telecommunications services available for resale to Hotel/Motel and Hospital end users, respectively. Similarly, Access Line Service for Customer Provided Coin Telephones is the only local service available for resale to Independent Payphone Provider (IPP) customers. Shared Tenant Service customers can only be sold those local exchange access services available in BellSouth's A23 Shared Tenant Service Tariff in the states of Florida, Georgia, North Carolina and South Carolina, and in A27 in the states of Alabama, Kentucky, Louisiana, Mississippi and Tennessee.

4.1.3 BellSouth reserves the right to periodically audit services purchased by NOW to establish authenticity of use. Such audit shall not occur more than once in a calendar year. NOW shall make any and all records and data available to BellSouth or BellSouth's auditors on a reasonable basis. BellSouth shall bear the cost of said audit.

4.2 Resold services can only be used in the same manner as specified in BellSouth's Tariffs. Resold services are subject to the same terms and conditions as are specified for such services when furnished to an individual end user of BellSouth in the appropriate section of BellSouth's Tariffs. Specific tariff features (e.g. a usage allowance per month), shall not be aggregated across multiple resold services.

4.3 NOW may resell services only within the specific resale service area as defined in its certificate.

4.4 Telephone numbers transmitted via any resold service feature are intended solely for the use of the end user of the feature. Resale of this information is prohibited.

**5. Maintenance of Services**

5.1 NOW will adopt and adhere to the standards contained in the applicable CLEC Work Center Operational Understanding Agreement regarding maintenance and installation of service.

5.2 Services resold under BellSouth's Tariffs and facilities and equipment provided by BellSouth shall be maintained by BellSouth.

- 5.3 NOW or its end users may not rearrange, move, disconnect, remove or attempt to repair any facilities owned by BellSouth, other than by connection or disconnection to any interface means used, except with the written consent of BellSouth.
- 5.4 NOW accepts responsibility to notify BellSouth of situations that arise that may result in a service problem.
- 5.5 NOW will be BellSouth's single point of contact for all repair calls on behalf of NOW's end users. The parties agree to provide one another with toll-free contact numbers for such purposes.
- 5.6 NOW will contact the appropriate repair centers in accordance with procedures established by BellSouth.
- 5.7 For all repair requests, NOW accepts responsibility for adhering to BellSouth's prescreening guidelines prior to referring the trouble to BellSouth.
- 5.8 BellSouth will bill NOW for handling troubles that are found not to be in BellSouth's network pursuant to its standard time and material charges. The standard time and material charges will be no more than what BellSouth charges to its retail customers for the same services.
- 5.9 BellSouth reserves the right to contact NOW's end users, if deemed necessary, for maintenance purposes.

**6. Establishment of Service**

- 6.1 After receiving certification as a local exchange company from the appropriate regulatory agency, NOW will provide the appropriate BellSouth service center the necessary documentation to enable BellSouth to establish a master account for NOW's resold services. Such documentation shall include the Application for Master Account, proof of authority to provide telecommunications services, an Operating Company Number ("OCN") assigned by the National Exchange Carriers Association ("NECA") and a tax exemption certificate, if applicable. When necessary deposit requirements are met, BellSouth will begin taking orders for the resale of service.
- 6.2 Service orders will be in a standard format designated by BellSouth.
- 6.3 When notification is received from NOW that a current end user of BellSouth will subscribe to NOW's service, standard service order intervals for the appropriate class of service will apply.
- 6.4 BellSouth will not require end user confirmation prior to establishing service for NOW's end user customer. NOW must, however, be able to demonstrate end user authorization upon request.

- 6.5 NOW will be the single point of contact with BellSouth for all subsequent ordering activity resulting in additions or changes to resold services except that BellSouth will accept a request directly from the end user for conversion of the end user's service from NOW to BellSouth or will accept a request from another CLEC for conversion of the end user's service from NOW to the other LEC. BellSouth will notify NOW that such a request has been processed.
- 6.6 If BellSouth determines that an unauthorized change in local service to NOW has occurred, BellSouth will reestablish service with the appropriate local service provider and will assess NOW as the CLEC initiating the unauthorized change, the unauthorized change charge described in F.C.C. Tariff No. 1, Section 13 or applicable state tariff. Appropriate nonrecurring charges, as set forth in Section A4 of the General Subscriber Service Tariff, will also be assessed to NOW. These charges can be adjusted if NOW provides satisfactory proof of authorization.
- 6.7 In order to safeguard its interest, BellSouth reserves the right to secure the account with a suitable form of security deposit, unless satisfactory credit has already been established.
- 6.7.1 Such security deposit shall take the form of an irrevocable Letter of Credit or other forms of security acceptable to BellSouth. Any such security deposit may be held during the continuance of the service as security for the payment of any and all amounts accruing for the service.
- 6.7.2 If a security deposit is required, such security deposit shall be made prior to the inauguration of service.
- 6.7.3 Such security deposit may not exceed two months' estimated billing.
- 6.7.4 The fact that a security deposit has been made in no way relieves NOW from complying with BellSouth's regulations as to advance payments and the prompt payment of bills on presentation nor does it constitute a waiver or modification of the regular practices of BellSouth providing for the discontinuance of service for non-payment of any sums due BellSouth.
- 6.7.5 BellSouth reserves the right to increase the security deposit requirements when, in its sole judgment, circumstances so warrant and/or gross monthly billing has increased beyond the level initially used to determine the security deposit.
- 6.7.6 In the event that NOW defaults on its account, service to NOW will be terminated and any security deposits held will be applied to its account.
- 6.7.7 Interest on a security deposit shall accrue and be paid in accordance with the terms in the appropriate BellSouth tariff.

**7. Payment And Billing Arrangements**

- 7.1 Prior to submitting orders to BellSouth for local service, a master account must be established for NOW. NOW is required to provide the following before a master account is established: proof of PSC/PUC certification, the Application for Master Account, an Operating Company Number ("OCN") assigned by the National Exchange Carriers Association ("NECA") and a tax exemption certificate, if applicable.
- 7.2 BellSouth shall bill NOW on a current basis all applicable charges and credits.
- 7.3 Payment of all charges will be the responsibility of NOW. NOW shall make payment to BellSouth for all services billed. BellSouth is not responsible for payments not received by NOW from NOW's end user. BellSouth will not become involved in billing disputes that may arise between NOW and its end user. Payments made to BellSouth as payment on account will be credited to an accounts receivable master account and not to an end user's account.
- 7.4 BellSouth will render bills each month on established bill days for each of NOW's accounts.
- 7.5 BellSouth will bill NOW in advance charges for all services to be provided during the ensuing billing period except charges associated with service usage, which will be billed in arrears. Charges will be calculated on an individual end user account level, including, if applicable, any charge for usage or usage allowances. BellSouth will also bill NOW, and NOW will be responsible for and remit to BellSouth, all charges applicable to resold services including but not limited to 911 and E911 charges, telecommunications relay charges (TRS), and franchise fees.
- 7.6 The payment will be due by the next bill date (i.e., same date in the following month as the bill date) and is payable in immediately available funds. Payment is considered to have been made when received by BellSouth.
- 7.6.1 If the payment due date falls on a Sunday or on a Holiday which is observed on a Monday, the payment due date shall be the first non-Holiday day following such Sunday or Holiday. If the payment due date falls on a Saturday or on a Holiday which is observed on Tuesday, Wednesday, Thursday, or Friday, the payment due date shall be the last non-Holiday day preceding such Saturday or Holiday. If payment is not received by the payment due date, a late payment penalty, as set forth in section 7.8 following, shall apply.
- 7.6.2 If NOW requests multiple billing media or additional copies of bills, BellSouth will provide these at an appropriate charge to NOW.
- 7.6.3 Billing Disputes

- 7.6.3.1 Each Party agrees to notify the other Party upon the discovery of a billing dispute. In the event of a billing dispute, the Parties will endeavor to resolve the dispute within sixty (60) calendar days of the Bill Date on which such disputed charges appear. Resolution of the dispute is expected to occur at the first level of management resulting in a recommendation for settlement of the dispute and closure of a specific billing period. If the issues are not resolved within the allotted time frame, the following resolution procedure will begin:
- 7.6.3.2 If the dispute is not resolved within sixty (60) days of the Bill Date, the dispute will be escalated to the second level of management for each of the respective Parties for resolution. If the dispute is not resolved within ninety (90) days of the Bill Date, the dispute will be escalated to the third level of management for each of the respective Parties for resolution
- 7.6.3.3 If the dispute is not resolved within one hundred and twenty (120) days of the Bill Date, the dispute will be escalated to the fourth level of management for each of the respective Parties for resolution.
- 7.6.3.4 If a Party disputes a charge and does not pay such charge by the payment due date, such charges shall be subject to late payment charges as set forth in the Late Payment Charges provision of this Attachment. If a Party disputes charges and the dispute is resolved in favor of such Party, the other Party shall credit the bill of the disputing Party for the amount of the disputed charges along with any late payment charges assessed no later than the second Bill Date after the resolution of the dispute. Accordingly, if a Party disputes charges and the dispute is resolved in favor of the other Party, the disputing Party shall pay the other Party the amount of the disputed charges and any associated late payment charges assessed no later than the second bill payment due date after the resolution of the dispute. BellSouth shall only assess interest on previously assessed late payment charges in a state where it has authority pursuant to its tariffs.
- 7.7 Upon proof of tax exempt certification from NOW, the total amount billed to NOW will not include any taxes due from the end user to reflect the tax exempt certification and local tax laws. NOW will be solely responsible for the computation, tracking, reporting, and payment of taxes applicable to NOW's end user.
- 7.8 If any portion of the payment is received by BellSouth after the payment due date as set forth preceding, or if any portion of the payment is received by BellSouth in funds that are not immediately available to BellSouth, then a late payment penalty shall be due to BellSouth. The late payment penalty shall be the portion of the payment not received by the payment due date times a late factor and will be applied on a per bill basis. The late factor shall be as set forth in Section A2 of the General Subscriber

Services Tariff and Section B2 of the Private Line Service Tariff. NOW will be charged a fee for all returned checks as set forth in Section to A2 of the General Subscriber Services Tariff or in applicable state law.

- 7.9 Any switched access charges associated with interexchange carrier access to the resold local exchange lines will be billed by, and due to, BellSouth. No additional charges are to be assessed to NOW
- 7.10 BellSouth will not perform billing and collection services for NOW as a result of the execution of this Agreement. All requests for billing services should be referred to the appropriate entity or operational group within BellSouth.
- 7.11 Pursuant to 47 CFR Section 51.617, BellSouth will bill NOW end user common line charges identical to the end user common line charges BellSouth bills its end users.
- 7.12 In general, BellSouth will not become involved in disputes between NOW and NOW's end user customers over resold services. If a dispute does arise that cannot be settled without the involvement of BellSouth, NOW shall contact the designated Service Center for resolution. BellSouth will make every effort to assist in the resolution of the dispute and will work with NOW to resolve the matter in as timely a manner as possible. NOW may be required to submit documentation to substantiate the claim.
- 8. Discontinuance of Service**
  - 8.1 The procedures for discontinuing service to an end user are as follows:
    - 8.1.1 Where possible, BellSouth will deny service to NOW's end user on behalf of, and at the request of, NOW. Upon restoration of the end user's service, restoral charges will apply and will be the responsibility of NOW.
    - 8.1.2 At the request of NOW, BellSouth will disconnect a NOW end user customer.
    - 8.1.3 All requests by NOW for denial or disconnection of an end user for nonpayment must be in writing.
    - 8.1.4 NOW will be made solely responsible for notifying the end user of the proposed disconnection of the service.
    - 8.1.5 BellSouth will continue to process calls made to the Annoyance Call Center and will advise NOW when it is determined that annoyance calls are originated from one of their end user's locations. BellSouth shall be indemnified, defended and held harmless by NOW and/or the end user against any claim, loss or damage arising from providing this information to NOW. It is the responsibility of NOW to take the



corrective action necessary with its end users who make annoying calls. Failure to do so will result in BellSouth's disconnecting the end user's service.

- 8.1.6 BellSouth may disconnect and reuse facilities when the facility is in a denied state and BellSouth has received an order to establish new service or transfer of service from an end user or an end user's CLEC at the same address served by the denied facility.
- 8.2 The procedures for discontinuing service to NOW are as follows:
  - 8.2.1 BellSouth reserves the right to suspend or terminate service for nonpayment or in the event of prohibited, unlawful or improper use of the facilities or service, abuse of the facilities, or any other violation or noncompliance by NOW of the rules and regulations of BellSouth's Tariffs.
  - 8.2.2 If payment of account is not received by the bill day in the month after the original bill day, BellSouth may provide written notice to NOW, that additional applications for service will be refused and that any pending orders for service will not be completed if payment is not received by the fifteenth day following the date of the notice. In addition BellSouth may, at the same time, give thirty days notice to the person designated by NOW to receive notices of noncompliance, and discontinue the provision of existing services to NOW at any time thereafter.
  - 8.2.3 In the case of such discontinuance, all billed charges, as well as applicable termination charges, shall become due.
  - 8.2.4 If BellSouth does not discontinue the provision of the services involved on the date specified in the thirty days notice and NOW's noncompliance continues, nothing contained herein shall preclude BellSouth's right to discontinue the provision of the services to NOW without further notice.
  - 8.2.5 If payment is not received or arrangements made for payment by the date given in the written notification, NOW's services will be discontinued. Upon discontinuance of service on a NOW's account, service to NOW's end users will be denied. BellSouth will also reestablish service at the request of the end user or NOW upon payment of the appropriate connection fee and subject to BellSouth's normal application procedures. NOW is solely responsible for notifying the end user of the proposed disconnection of the service.
  - 8.2.6 If within fifteen days after an end user's service has been denied no contact has been made in reference to restoring service, the end user's service will be disconnected.

**9. Line Information Database (LIDB)**

- 9.1 BellSouth will store in its Line Information Database (LIDB) records relating to service only in the BellSouth region. The LIDB Storage Agreement is included in this Attachment as Exhibit C.
- 9.2 BellSouth will provide LIDB Storage upon written request to NOW Account Manager stating requested activation date.

**10. RAO Hosting**

- 10.1 The RAO Hosting Agreement is included in this Attachment as Exhibit D. Rates for BellSouth's Centralized Message Distribution System (CMDS) are as set forth in Exhibit H of this Attachment.
- 10.2 BellSouth will provide RAO Hosting upon written request to its Account Manager stating requested activation date.

**11. Optional Daily Usage File (ODUF)**

- 11.1 The Optional Daily Usage File (ODUF) Agreement with terms and conditions is included in this Attachment as Exhibit E. Rates for ODUF are as set forth in Exhibit H of this Attachment.
- 11.2 BellSouth will provide Optional Daily Usage File (ODUF) service upon written request to its Account Manager stating requested activation date.

**12. Enhanced Optional Daily Usage File (EODUF)**

- 12.1 The Enhanced Optional Daily Usage File (EODUF) service Agreement with terms and conditions is included in this Attachment as Exhibit F. Rates for EODUF are as set forth in Exhibit H of this Attachment.
- 12.2 BellSouth will provide Enhanced Optional Daily Usage File (EODUF) service upon written request to its Account Manager stating requested activation date.

**13. Calling Name Delivery (CNAM) Database Service**

- 13.1 Calling Name Delivery (CNAM) Database Service Agreement is included in this Attachment as Exhibit G. Rates for CNAM are as set forth in Exhibit H of this Attachment.
- 13.2 BellSouth will provide Calling Name Delivery (CNAM) Database service upon written request to its Account Manager stating requested activation date.

**APPLICABLE DISCOUNTS**

The telecommunications services available for purchase by NOW for the purposes of resale to NOW end users shall be available at the following discount off of the retail rate.

**DISCOUNT\***

<b>STATE</b>	<b>RESIDENCE</b>	<b>BUSINESS</b>	<b>CSAs***</b>
ALABAMA	16.3%	16.3%	
FLORIDA	21.83%	16.81%	
GEORGIA	20.3%	17.3%	
KENTUCKY	16.79%	15.54%	
LOUISIANA	20.72%	20.72%	9.05%
MISSISSIPPI	15.75%	15.75%	
NORTH CAROLINA	21.5%	17.6%	
SOUTH CAROLINA	14.8%	14.8%	8.98%
TENNESSEE**	16%	16%	

- \* When a CLEC provides Resale service in a cross boundary area (areas that are part of the local serving area of another state's exchange) the rates, regulations and discounts for the tariffing state will apply. Billing will be from the serving state.
- \*\* In Tennessee, if a CLEC provides its own operator services and directory services, the discount shall be 21.56%. CLEC must provide written notification to BellSouth within 30 days prior to providing its own operator services and directory services to qualify for the higher discount rate of 21.56%.
- \*\*\* Unless noted in this column, the discount for Business will be the applicable discount rate for CSAs.

### OPERATIONAL SUPPORT SYSTEMS (OSS) RATES

BellSouth has developed and made available the following mechanized systems by which NOW may submit LSRs electronically.

LENS	Local Exchange Navigation System
EDI	Electronic Data Interface
EDI-PC	Electronic Data Interface – Personal Computer
TAG	Telecommunications Access Gateway

LSRs submitted by means of one of these interactive interfaces will incur an OSS electronic ordering charge as specified in the Table below. An individual LSR will be identified for billing purposes by its Purchase Order Number (PON). LSRs submitted by means other than one of these interactive interfaces (mail, fax, courier, etc.) will incur a manual order charge as specified in the table below:

OPERATIONAL SUPPORT SYSTEMS (OSS) RATES	Electronic	Manual
	Per LSR received from the CLEC by one of the OSS interactive interfaces	Per LSR received from the CLEC by means other than one of the OSS interactive interfaces
OSS LSR Charge	\$3.50	\$19.99
USOC	SOMECH	SOMAN

Note: In addition to the OSS charges, applicable discounted service order and related discounted charges apply per the tariff.

#### Denial/Restoral OSS Charge

In the event NOW provides a list of customers to be denied and restored, rather than an LSR, each location on the list will require a separate PON and, therefore will be billed as one LSR per location.

#### Cancellation OSS Charge

NOW will incur an OSS charge for an accepted LSR that is later canceled by NOW.

Note: Supplements or clarifications to a previously billed LSR will not incur another OSS charge.

#### Threshold Billing Plan

The Parties agree that NOW will incur the mechanized rate for all LSRs, both mechanized and manual, if the percentage of mechanized LSRs to total LSRs meets or exceeds the threshold percentages shown below:

Year	Ratio: Mechanized/Total LSRs
1999	70%
2000	80%
2001	90%

The threshold plan will be discontinued in 2002.

BellSouth will track the total LSR volume for each CLEC for each quarter. At the end of that time period, a Percent Electronic LSR calculation will be made for that quarter based on the LSR data tracked in the LCSC. If this percentage exceeds the threshold volume, all of that CLECs' future manual LSRs will be billed at the mechanized LSR rate. To allow time for obtaining and analyzing the data and updating the billing system, this billing change will take place on the first day of the second month following the end of the quarter (e.g. May 1 for 1Q, Aug 1 for 2Q, etc.). There will be no adjustments to the amount billed for previously billed LSRs.

**EXCLUSIONS AND LIMITATIONS  
ON SERVICES AVAILABLE FOR RESALE**

Type of Service		AL		FL		GA		KY		LA	
		Resale?	Discount?	Resale?	Discount?	Resale?	Discount?	Resale?	Discount?	Resale?	Discount?
1.	Grandfathered Services (Note 1)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2.	Contract Service Arrangements	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
3.	Promotions - > 90 Days (Note 2)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
4.	Promotions - < 90 Days (Note 2)	Yes	No	Yes	No	Yes	No	No	No	Yes	No
5.	Lifeline/Link Up Services	Yes	Yes	Yes	Yes	Yes	Yes	Note 4	Note 4	Yes	Yes
6.	911/E911 Services	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
7.	N11 Services	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	No
8.	AdWatch <sup>SM</sup> Svc (See Note 6)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
9.	MemoryCall <sup>®</sup> Service	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
10.	Mobile Services	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
11.	Federal Subscriber Line Charges	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
12.	Non-Recurring Charges	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
13.	End User Line Charge – Number Portability	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
14.	Public Telephone Access Service (PTAS)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Type of Service		MS		NC		SC		TN			
		Resale?	Discount?	Resale?	Discount?	Resale?	Discount?	Resale?	Discount?		
1.	Grandfathered Services (Note 1)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		
2.	Contract Service Arrangements	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		
3.	Promotions - > 90 Days (Note 2)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Note 3		
4.	Promotions - < 90 Days (Note 2)	Yes	No	No	No	Yes	No	No	No		
5.	Lifeline/Link Up Services	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		
6.	911/E911 Services	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		
7.	N11 Services	Yes	Yes	Yes	Yes	No	No	Yes	Yes		
8.	AdWatch <sup>SM</sup> Svc (See Note 6)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		
9.	MemoryCall <sup>®</sup> Service	Yes	No	Yes	No	Yes	No	Yes	No		
10.	Mobile Services	Yes	No	Yes	No	Yes	No	Yes	No		
11.	Federal Subscriber Line Charges	Yes	No	Yes	No	Yes	No	Yes	No		
12.	Non-Recurring Charges	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No		

13.	End User Line Charge – Number Portability	Yes	No	Yes	No	Yes	No	Yes	No
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14.	Public Telephone Access Service (PTAS)	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
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**Applicable Notes:**

1. **Grandfathered services** can be resold only to existing subscribers of the grandfathered service.
2. Where available for resale, **promotions** will be made available only to end users who would have qualified for the promotion had it been provided by BellSouth directly.
3. In Tennessee, long-term **promotions** (offered for more than ninety (90) days) may be obtained at one of the following rates:
  - (a) the stated tariff rate, less the wholesale discount;
  - (b) the promotional rate (the promotional rate offered by BellSouth will not be discounted further by the wholesale discount rate)
4. **Lifeline/Link Up** services may be offered only to those subscribers who meet the criteria that BellSouth currently applies to subscribers of these services as set forth in Sections A3 and A4 of the BellSouth General Subscriber Services Tariff.
5. Some of BellSouth's local exchange and toll telecommunications services are not available in certain central offices and areas.
6. AdWatch<sup>SM</sup> Service is tariffed as BellSouth<sup>®</sup> AIN Virtual Number Call Detail Service.

**LINE INFORMATION DATA BASE (LIDB)  
STORAGE AGREEMENT**

**I. SCOPE**

- A. This Agreement sets forth the terms and conditions pursuant to which BellSouth agrees to store in its LIDB certain information at the request of NOW and pursuant to which BellSouth, its LIDB customers and NOW shall have access to such information. NOW understands that BellSouth provides access to information in its LIDB to various telecommunications service providers pursuant to applicable tariffs and agrees that information stored at the request of NOW, pursuant to this Agreement, shall be available to those telecommunications service providers. The terms and conditions contained in the attached Addendum(s) are hereby made a part of this Agreement as if fully incorporated herein.
- B. LIDB is accessed for the following purposes:
1. Billed Number Screening
  2. Calling Card Validation
  3. Fraud Control
- C. BellSouth will provide seven days per week, 24-hours per day, fraud monitoring on Calling Cards, bill-to-third and collect calls made to numbers in BellSouth's LIDB, provided that such information is included in the LIDB query. BellSouth will establish fraud alert thresholds and will notify NOW of fraud alerts so that NOW may take action it deems appropriate. NOW understands and agrees BellSouth will administer all data stored in the LIDB, including the data provided by NOW pursuant to this Agreement, in the same manner as BellSouth's data for BellSouth's end user customers. BellSouth shall not be responsible to NOW for any lost revenue which may result from BellSouth's administration of the LIDB pursuant to its established practices and procedures as they exist and as they may be changed by BellSouth in its sole discretion from time to time.
- NOW understands that BellSouth currently has in effect numerous billing and collection agreements with various interexchange carriers and billing clearing houses. NOW further understands that these billing and collection customers of BellSouth query BellSouth's LIDB to determine whether to accept various billing options from end users. Additionally, NOW understands that presently BellSouth has no method to differentiate between BellSouth's own billing and line data in the LIDB and such data which it includes in the LIDB on NOW's behalf pursuant to this Agreement. Therefore, until such time as BellSouth can and does implement in its LIDB and its supporting systems the means to differentiate NOW's data from BellSouth's data and



the Parties to this Agreement execute appropriate amendments hereto, the following terms and conditions shall apply:

- (a) NOW agrees that it will accept responsibility for telecommunications services billed by BellSouth for its billing and collection customers for NOW's end user accounts which are resident in LIDB pursuant to this Agreement. NOW authorizes BellSouth to place such charges on NOW's bill from BellSouth and agrees that it shall pay all such charges. Charges for which NOW hereby takes responsibility include, but are not limited to, collect and third number calls.
- (b) Charges for such services shall appear on a separate BellSouth bill page identified with the name of the entity for which BellSouth is billing the charge.
- (c) NOW shall have the responsibility to render a billing statement to its end users for these charges, but NOW's obligation to pay BellSouth for the charges billed shall be independent of whether NOW is able or not to collect from NOW's end users.
- (d) BellSouth shall not become involved in any disputes between NOW and the entities for which BellSouth performs billing and collection. BellSouth will not issue adjustments for charges billed on behalf of an entity to NOW. It shall be the responsibility of NOW and the other entity to negotiate and arrange for any appropriate adjustments.

## **II. TERM**

This Agreement will be effective as of \_\_\_\_\_, and will continue in effect for one year, and thereafter may be continued until terminated by either Party upon thirty (30) days written notice to the other Party.

## **III. FEES FOR SERVICE AND TAXES**

- A. NOW will not be charged a fee for storage services provided by BellSouth to NOW, as described in Section I of this Agreement.
- B. Sales, use and all other taxes (excluding taxes on BellSouth's income) determined by BellSouth or any taxing authority to be due to any federal, state or local taxing jurisdiction with respect to the provision of the service set forth herein will be paid by NOW. NOW shall have the right to have BellSouth contest with the imposing jurisdiction, at NOW's expense, any such taxes that NOW deems are improperly levied.

#### **IV. INDEMNIFICATION**

To the extent not prohibited by law, each Party will indemnify the other and hold the other harmless against any loss, cost, claim, injury, or liability relating to or arising out of negligence or willful misconduct by the indemnifying Party or its agents or contractors in connection with the indemnifying Party's provision of services, provided, however, that any indemnity for any loss, cost, claim, injury or liability arising out of or relating to errors or omissions in the provision of services under this Agreement shall be limited as otherwise specified in this Agreement. The indemnifying Party under this Section agrees to defend any suit brought against the other Party for any such loss, cost, claim, injury or liability. The indemnified Party agrees to notify the other Party promptly, in writing, of any written claims, lawsuits, or demands for which the other Party is responsible under this Section and to cooperate in every reasonable way to facilitate defense or settlement of claims. The indemnifying Party shall not be liable under this Section for settlement by the indemnified Party of any claim, lawsuit, or demand unless the defense of the claim, lawsuit, or demand has been tendered to it in writing and the indemnifying Party has unreasonably failed to assume such defense.

#### **V. LIMITATION OF LIABILITY**

Neither Party shall be liable to the other Party for any lost profits or revenues or for any indirect, incidental or consequential damages incurred by the other Party arising from this Agreement or the services performed or not performed hereunder, regardless of the cause of such loss or damage.

#### **VI. MISCELLANEOUS**

- A. It is understood and agreed to by the Parties that BellSouth may provide similar services to other companies.
- B. All terms, conditions and operations under this Agreement shall be performed in accordance with, and subject to, all applicable local, state or federal legal and regulatory tariffs, rulings, and other requirements of the federal courts, the U. S. Department of Justice and state and federal regulatory agencies. Nothing in this Agreement shall be construed to cause either Party to violate any such legal or regulatory requirement and either Party's obligation to perform shall be subject to all such requirements.
- C. NOW agrees to submit to BellSouth all advertising, sales promotion, press releases, and other publicity matters relating to this Agreement wherein BellSouth's corporate or trade names, logos, trademarks or service marks or those of BellSouth's affiliated companies are mentioned or language from which the connection of said names or trademarks therewith may be inferred or implied; and NOW further agrees not to publish or use advertising, sales promotions, press releases, or publicity matters without BellSouth's prior written approval.

- D. This Agreement constitutes the entire Agreement between NOW and BellSouth which supersedes all prior Agreements or contracts, oral or written representations, statements, negotiations, understandings, proposals and undertakings with respect to the subject matter hereof.
- E. Except as expressly provided in this Agreement, if any part of this Agreement is held or construed to be invalid or unenforceable, the validity of any other Section of this Agreement shall remain in full force and effect to the extent permissible or appropriate in furtherance of the intent of this Agreement.
- F. Neither Party shall be held liable for any delay or failure in performance of any part of this Agreement for any cause beyond its control and without its fault or negligence, such as acts of God, acts of civil or military authority, government regulations, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, strikes, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities, or acts or omissions of transportation common carriers.
- G. This Agreement shall be deemed to be a contract made under the laws of the State of Georgia, and the construction, interpretation and performance of this Agreement and all transactions hereunder shall be governed by the domestic law of such State.

**RESALE ADDENDUM  
TO LINE INFORMATION DATA BASE (LIDB)  
STORAGE AGREEMENT**

This is a Resale Addendum to the Line Information Data Base Storage Agreement dated \_\_\_\_\_, 199 \_\_, between BellSouth Telecommunications, Inc. ("BellSouth"), and NOW ("NOW"), effective the \_\_\_\_ day of \_\_\_\_\_, 199 \_\_.

**I. GENERAL**

This Addendum sets forth the terms and conditions for NOW's provision of billing number information to BellSouth for inclusion in BellSouth's LIDB. BellSouth will store in its LIDB the billing number information provided by NOW, and BellSouth will provide responses to on-line, call-by-call queries to this information for purposes specified in Section I.B. of the Agreement.

**II. DEFINITIONS**

- A. Billing number - a number used by BellSouth for the purpose of identifying an account liable for charges. This number may be a line or a special billing number.
- B. Line number - a ten digit number assigned by BellSouth that identifies a telephone line associated with a resold local exchange service, or with a SPNP arrangement.
- B. Special billing number - a ten digit number that identifies a billing account established by BellSouth in connection with a resold local exchange service or with a SPNP arrangement.
- D. Calling Card number - a billing number plus PIN number assigned by BellSouth.
- E. PIN number - a four digit security code assigned by BellSouth which is added to a billing number to compose a fourteen digit calling card number.
- F. Toll billing exception indicator - associated with a billing number to indicate that it is considered invalid for billing of collect calls or third number calls or both, by NOW.
- F. Billed Number Screening - refers to the activity of determining whether a toll billing exception indicator is present for a particular billing number.

- H. Calling Card Validation - refers to the activity of determining whether a particular calling card number exists as stated or otherwise provided by a caller.
- J. Billing number information - information about billing number or Calling Card number as assigned by BellSouth and toll billing exception indicator provided to BellSouth by NOW.

### **III. RESPONSIBILITIES OF PARTIES**

- A. BellSouth will include billing number information associated with resold exchange lines or SPNP arrangements in its LIDB. NOW will request any toll billing exceptions via the Local Service Request (LSR) form used to order resold exchange lines, or the SPNP service request form used to order SPNP arrangements.
- B. Under normal operating conditions, BellSouth shall include the billing number information in its LIDB upon completion of the service order establishing either the resold local exchange service or the SPNP arrangement, provided that BellSouth shall not be held responsible for any delay or failure in performance to the extent such delay or failure is caused by circumstances or conditions beyond BellSouth's reasonable control. BellSouth will store in its LIDB an unlimited volume of the working telephone numbers associated with either the resold local exchange lines or the SPNP arrangements. For resold local exchange lines or for SPNP arrangements, BellSouth will issue line-based calling cards only in the name of NOW. BellSouth will not issue line-based calling cards in the name of NOW's individual end users. In the event that NOW wants to include calling card numbers assigned by NOW in the BellSouth LIDB, a separate agreement is required.
- C. BellSouth will provide responses to on-line, call-by-call queries to the stored information for the specific purposes listed in the next paragraph.
- D. BellSouth is authorized to use the billing number information to perform the following functions for authorized users on an on-line basis:
  - 1. Validate a 14 digit Calling Card number where the first 10 digits are a line number or special billing number assigned by BellSouth, and where the last four digits (PIN) are a security code assigned by BellSouth.
  - 2. Determine whether NOW has identified the billing number as one which should not be billed for collect or third number calls, or both.

**RAO Hosting**

1. RAO Hosting, Calling Card and Third Number Settlement System (CATS) and Non-Intercompany Settlement System (NICS) services provided to NOW by BellSouth will be in accordance with the methods and practices regularly adopted and applied by BellSouth to its own operations during the term of this Agreement, including such revisions as may be made from time to time by BellSouth.
2. NOW shall furnish all relevant information required by BellSouth for the provision of RAO Hosting, CATS and NICS.
3. Applicable compensation amounts will be billed by BellSouth to NOW on a monthly basis in arrears. Amounts due from one Party to the other (excluding adjustments) are payable within thirty (30) days of receipt of the billing statement.
4. NOW must have its own unique RAO code. Requests for establishment of RAO status where BellSouth is the selected Centralized Message Distribution System (CMDS) interfacing host, require written notification from NOW to the BellSouth RAO Hosting coordinator at least eight (8) weeks prior to the proposed effective date. The proposed effective date will be mutually agreed upon between the Parties with consideration given to time necessary for the completion of required Telcordia (formerly BellCore) functions. BellSouth will request the assignment of an RAO code from its connecting contractor, currently Telcordia (formerly BellCore), on behalf of NOW and will coordinate all associated conversion activities.
5. BellSouth will receive messages from NOW that are to be processed by BellSouth, another LEC or CLEC in the BellSouth region or a LEC outside the BellSouth region.
6. BellSouth will perform invoice sequence checking, standard EMI format editing, and balancing of message data with the EMI trailer record counts on all data received from NOW.
7. All data received from NOW that is to be processed or billed by another LEC or CLEC within the BellSouth region will be distributed to that LEC or CLEC in accordance with the agreement(s) which may be in effect between BellSouth and the involved LEC or CLEC.
8. All data received from NOW that is to be placed on the CMDS network for distribution outside the BellSouth region will be handled in accordance with the agreement(s) which may be in effect between BellSouth and its connecting contractor (currently Telcordia (formerly BellCore)).

9. BellSouth will receive messages from the CMD5 network that are destined to be processed by NOW and will forward them to NOW on a daily basis.
10. Transmission of message data between BellSouth and NOW will be via CONNECT:Direct.
11. All messages and related data exchanged between BellSouth and NOW will be formatted in accordance with accepted industry standards for EMI formatted records and packed between appropriate EMI header and trailer records, also in accordance with accepted industry standards.
12. NOW will ensure that the recorded message detail necessary to recreate files provided to BellSouth will be maintained for back-up purposes for a period of three (3) calendar months beyond the related message dates.
13. Should it become necessary for NOW to send data to BellSouth more than sixty (60) days past the message date(s), NOW will notify BellSouth in advance of the transmission of the data. If there will be impacts outside the BellSouth region, BellSouth will work with its connecting contractor and NOW to notify all affected Parties.
14. In the event that data to be exchanged between the two Parties should become lost or destroyed, both Parties will work together to determine the source of the problem. Once the cause of the problem has been jointly determined and the responsible Party (BellSouth or NOW) identified and agreed to, the company responsible for creating the data (BellSouth or NOW) will make every effort to have the affected data restored and retransmitted. If the data cannot be retrieved, the responsible Party will be liable to the other Party for any resulting lost revenue. Lost revenue may be a combination of revenues that could not be billed to the end users and associated access revenues. Both Parties will work together to estimate the revenue amount based upon historical data through a method mutually agreed upon. The resulting estimated revenue loss will be paid by the responsible Party to the other Party within three (3) calendar months of the date of problem resolution, or as mutually agreed upon by the Parties.
15. Should an error be detected by the EMI format edits performed by BellSouth on data received from NOW, the entire pack containing the affected data will not be processed by BellSouth. BellSouth will notify NOW of the error condition. NOW will correct the error(s) and will resend the entire pack to BellSouth for processing. In the event that an out-of-sequence condition occurs on subsequent packs, NOW will

resend these packs to BellSouth after the pack containing the error has been successfully reprocessed by BellSouth.

16. In association with message distribution service, BellSouth will provide NOW with associated intercompany settlements reports (CATS and NICS) as appropriate.
17. In no case shall either Party be liable to the other for any direct or consequential damages incurred as a result of the obligations set out in this agreement.
18. RAO Compensation
  - 18.1 Rates for message distribution service provided by BellSouth for NOW are as set forth in Exhibit A to this Attachment.
  - 18.2 Rates for data transmission associated with message distribution service are as set forth in Exhibit A to this Attachment .
  - 18.3 Data circuits (private line or dial-up) will be required between BellSouth and NOW for the purpose of data transmission. Where a dedicated line is required, NOW will be responsible for ordering the circuit, overseeing its installation and coordinating the installation with BellSouth. NOW will also be responsible for any charges associated with this line. Equipment required on the BellSouth end to attach the line to the mainframe computer and to transmit successfully ongoing will be negotiated on a case by case basis. Where a dial-up facility is required, dial circuits will be installed in the BellSouth data center by BellSouth and the associated charges assessed to NOW. Additionally, all message toll charges associated with the use of the dial circuit by NOW will be the responsibility of NOW. Associated equipment on the BellSouth end, including a modem, will be negotiated on a case by case basis between the Parties.
  - 18.4 All equipment, including modems and software, that is required on NOW end for the purpose of data transmission will be the responsibility of NOW.
19. Intercompany Settlements Messages
  - 19.1 This Section addresses the settlement of revenues associated with traffic originated from or billed by NOW as a facilities based provider of local exchange telecommunications services outside the BellSouth region. Only traffic that originates in one Bell operating territory and bills in another Bell operating territory is included. Traffic that originates and bills within the same Bell operating territory will



be settled on a local basis between NOW and the involved company(ies), unless that company is participating in NICS.

- 19.2 Both traffic that originates outside the BellSouth region by NOW and is billed within the BellSouth region, and traffic that originates within the BellSouth region and is billed outside the BellSouth region by NOW, is covered by this Agreement (CATS). Also covered is traffic that either is originated by or billed by NOW, involves a company other than NOW, qualifies for inclusion in the CATS settlement, and is not originated or billed within the BellSouth region (NICS).
- 19.3 Once NOW is operating within the BellSouth territory, revenues associated with calls originated and billed within the BellSouth region will be settled via Telcordia (formerly BellCore)'s, its successor or assign, NICS system.
- 19.4 BellSouth will receive the monthly NICS reports from Telcordia (formerly BellCore), its successor or assign, on behalf of NOW. BellSouth will distribute copies of these reports to NOW on a monthly basis.
- 19.5 BellSouth will receive the monthly Calling Card and Third Number Settlement System (CATS) reports from Telcordia (formerly BellCore), its successor or assign, on behalf of NOW. BellSouth will distribute copies of these reports to NOW on a monthly basis.
- 19.6 BellSouth will collect the revenue earned by NOW from the Bell operating company in whose territory the messages are billed (CATS), less a per message billing and collection fee of five cents (\$0.05), on behalf of NOW. BellSouth will remit the revenue billed by NOW to the Bell operating company in whose territory the messages originated, less a per message billing and collection fee of five cents (\$0.05), on behalf of NOW. These two amounts will be netted together by BellSouth and the resulting charge or credit issued to NOW via a monthly Carrier Access Billing System (CABS) miscellaneous bill.
- 19.7 BellSouth will collect the revenue earned by NOW within the BellSouth territory from another CLEC also within the BellSouth territory (NICS) where the messages are billed, less a per message billing and collection fee of five cents (\$0.05), on behalf of NOW. BellSouth will remit the revenue billed by NOW within the BellSouth region to the CLEC also within the BellSouth region, where the messages originated, less a per message billing and collection fee of five cents (\$0.05). These two amounts will be netted together by BellSouth and the resulting charge or credit issued to NOW via a monthly Carrier Access Billing System (CABS) miscellaneous bill.

BellSouth and NOW agree that monthly netted amounts of less than fifty dollars (\$50.00) will not be settled.

**Optional Daily Usage File**

1. Upon written request from NOW, BellSouth will provide the Optional Daily Usage File (ODUF) service to NOW pursuant to the terms and conditions set forth in this section.
2. NOW shall furnish all relevant information required by BellSouth for the provision of the Optional Daily Usage File.
3. The Optional Daily Usage Feed will contain billable messages that were carried over the BellSouth Network and processed in the BellSouth Billing System, but billed to a NOW customer.

Charges for delivery of the Optional Daily Usage File will appear on NOWs' monthly bills. The charges are as set forth in Exhibit A to this Attachment.

4. The Optional Daily Usage Feed will contain both rated and unrated messages. All messages will be in the standard Alliance for Telecommunications Industry Solutions (ATIS) EMI record format.
5. Messages that error in NOW's billing system will be the responsibility of NOW. If, however, NOW should encounter significant volumes of errored messages that prevent processing by NOW within its systems, BellSouth will work with the to determine the source of the errors and the appropriate resolution.
6. The following specifications shall apply to the Optional Daily Usage Feed.

6.1 **Usage To Be Transmitted**

- 6.1.1 The following messages recorded by BellSouth will be transmitted to NOW:

- Message recording for per use/per activation type services (examples: Three Way Calling, Verify, Interrupt, Call Return, ETC.)
- Measured billable Local
- Directory Assistance messages
- IntraLATA Toll
- WATS & 800 Service
- N11

- Information Service Provider Messages
  - Operator Services Messages
  - Operator Services Message Attempted Calls (UNE only)
  - Credit/Cancel Records
  - Usage for Voice Mail Message Service
- 6.1.2 Rated Incollects (originated in BellSouth and from other companies) can also be on Optional Daily Usage File. Rated Incollects will be intermingled with BellSouth recorded rated and unrated usage. Rated Incollects will not be packed separately.
- 6.1.3 BellSouth will perform duplicate record checks on records processed to Optional Daily Usage File. Any duplicate messages detected will be deleted and not sent to NOW.
- 6.1.4 In the event that NOW detects a duplicate on Optional Daily Usage File they receive from BellSouth, NOW will drop the duplicate message (NOW will not return the duplicate to BellSouth).
- 6.2 Physical File Characteristics
- 6.2.1 The Optional Daily Usage File will be distributed to NOW via an agreed medium with CONNECT:Direct being the preferred transport method. The Daily Usage Feed will be a variable block format (2476) with an LRECL of 2472. The data on the Daily Usage Feed will be in a non-compacted EMI format (175 byte format plus modules). It will be created on a daily basis (Monday through Friday except holidays). Details such as dataset name and delivery schedule will be addressed during negotiations of the distribution medium. There will be a maximum of one dataset per workday per OCN.
- 6.2.2 Data circuits (private line or dial-up) may be required between BellSouth and NOW for the purpose of data transmission. Where a dedicated line is required, NOW will be responsible for ordering the circuit, overseeing its installation and coordinating the installation with BellSouth. NOW will also be responsible for any charges associated with this line. Equipment required on the BellSouth end to attach the line to the mainframe computer and to transmit successfully ongoing will be negotiated on a case by case basis. Where a dial-up facility is required, dial circuits will be installed in the BellSouth data center by BellSouth and the associated charges assessed to NOW. Additionally, all message toll charges associated with the use of the dial circuit by NOW will be the responsibility of NOW. Associated equipment on the BellSouth end, including a modem, will be negotiated on a case by case basis

between the parties. All equipment, including modems and software, that is required on NOW end for the purpose of data transmission will be the responsibility of NOW.

### 6.3 Packing Specifications

6.3.1 A pack will contain a minimum of one message record or a maximum of 99,999 message records plus a pack header record and a pack trailer record. One transmission can contain a maximum of 99 packs and a minimum of one pack.

6.3.2 The OCN, From RAO, and Invoice Number will control the invoice sequencing. The From RAO will be used to identify to NOW which BellSouth RAO that is sending the message. BellSouth and NOW will use the invoice sequencing to control data exchange. BellSouth will be notified of sequence failures identified by NOW and resend the data as appropriate.

### **THE DATA WILL BE PACKED USING ATIS EMI RECORDS.**

### 6.4 Pack Rejection

6.4.1 NOW will notify BellSouth within one business day of rejected packs (via the mutually agreed medium). Packs could be rejected because of pack sequencing discrepancies or a critical edit failure on the Pack Header or Pack Trailer records (i.e. out-of-balance condition on grand totals, invalid data populated). Standard ATIS EMI Error Codes will be used. NOW will not be required to return the actual rejected data to BellSouth. Rejected packs will be corrected and retransmitted to NOW by BellSouth.

### 6.5 Control Data

NOW will send one confirmation record per pack that is received from BellSouth. This confirmation record will indicate NOW received the pack and the acceptance or rejection of the pack. Pack Status Code(s) will be populated using standard ATIS EMI error codes for packs that were rejected by NOW for reasons stated in the above section.

### 6.6 Testing

6.6.1 Upon request from NOW, BellSouth shall send test files to NOW for the Optional Daily Usage File. The parties agree to review and discuss the file's content and/or format. For testing of usage results, BellSouth shall request that NOW set up a production (LIVE) file. The live test may consist of NOW's employees making test calls for the types of services NOW requests on the Optional Daily Usage File. These test calls are logged by NOW, and the logs are provided to BellSouth. These logs

will be used to verify the files. Testing will be completed within 30 calendar days from the date on which the initial test file was sent.

**Enhanced Optional Daily Usage File**

1. Upon written request from NOW, BellSouth will provide the Enhanced Optional Daily Usage File (EODUF) service to NOW pursuant to the terms and conditions set forth in this section. EODUF will only be sent to existing ODUF subscribers who request the EODUF option.
2. NOW shall furnish all relevant information required by BellSouth for the provision of the Enhanced Optional Daily Usage File.
3. The Enhanced Optional Daily Usage File (EODUF) will provide usage data for local calls originating from resold Flat Rate Business and Residential Lines.
4. Charges for delivery of the Enhanced Optional Daily Usage File will appear on NOWs' monthly bills. The charges are as set forth in Exhibit A to this Attachment.
5. All messages will be in the standard Alliance for Telecommunications Industry Solutions (ATIS) EMI record format.
6. Messages that error in the billing system of NOW will be the responsibility of NOW. If, however, NOW should encounter significant volumes of errored messages that prevent processing by NOW within its systems, BellSouth will work with NOW to determine the source of the errors and the appropriate resolution.
7. The following specifications shall apply to the Optional Daily Usage Feed.
  - 7.1 **Usage To Be Transmitted**
    - 7.1.1 The following messages recorded by BellSouth will be transmitted to NOW:

Customer usage data for flat rated local call originating from NOW's end user lines (1FB or 1FR). The EODUF record for flat rate messages will include:

Date of Call  
From Number  
To Number  
Connect Time  
Conversation Time  
Method of Recording  
From RAO  
Rate Class

Message Type  
Billing Indicators  
Bill to Number

7.1.2 BellSouth will perform duplicate record checks on EODUF records processed to Optional Daily Usage File. Any duplicate messages detected will be deleted and not sent to NOW.

7.1.3 In the event that NOW detects a duplicate on Enhanced Optional Daily Usage File they receive from BellSouth, NOW will drop the duplicate message (NOW will not return the duplicate to BellSouth).

7.2 Physical File Characteristics

7.2.1 The Enhanced Optional Daily Usage Feed will be distributed to NOW over their existing Optional Daily Usage File (ODUF) feed. The EODUF messages will be intermingled among NOW's Optional Daily Usage File (ODUF) messages. The EODUF will be a variable block format (2476) with an LRECL of 2472. The data on the EODUF will be in a non-compacted EMI format (175 byte format plus modules). It will be created on a daily basis (Monday through Friday except holidays).

7.2.2 Data circuits (private line or dial-up) may be required between BellSouth and NOW for the purpose of data transmission. Where a dedicated line is required, NOW will be responsible for ordering the circuit, overseeing its installation and coordinating the installation with BellSouth. NOW will also be responsible for any charges associated with this line. Equipment required on the BellSouth end to attach the line to the mainframe computer and to transmit successfully ongoing will be negotiated on a case by case basis. Where a dial-up facility is required, dial circuits will be installed in the BellSouth data center by BellSouth and the associated charges assessed to NOW. Additionally, all message toll charges associated with the use of the dial circuit by NOW will be the responsibility of NOW. Associated equipment on the BellSouth end, including a modem, will be negotiated on a case by case basis between the parties. All equipment, including modems and software, that is required on NOW's end for the purpose of data transmission will be the responsibility of NOW.

7.3 Packing Specifications

7.3.1 A pack will contain a minimum of one message record or a maximum of 99,999 message records plus a pack header record and a pack trailer record. One transmission can contain a maximum of 99 packs and a minimum of one pack.



- 7.3.2 The Operating Company Number (OCN), From Revenue Accounting Office (RAO), and Invoice Number will control the invoice sequencing. The From RAO will be used to identify to NOW which BellSouth RAO that is sending the message. BellSouth and NOW will use the invoice sequencing to control data exchange. BellSouth will be notified of sequence failures identified by NOW and resend the data as appropriate.

**THE DATA WILL BE PACKED USING ATIS EMI RECORDS.**

## **CALLING NAME DELIVERY (CNAM) DATABASE SERVICES**

### **1. DEFINITIONS**

For the purpose of this Attachment, the following terms shall be defined as:

**CALLING NAME DELIVERY DATABASE SERVICE (CNAM)** - The ability to associate a name with the calling party number, allowing the end user subscriber (to which a call is being terminated) to view the calling party's name before the call is answered. This service also provides NOW the opportunity to load and store its subscriber names in the BellSouth CNAM SCPs.

**CALLING PARTY NUMBER (CPN)** - The number of the calling party that is delivered to the terminating switch using common channel signaling system 7 (CCS7) technology, and that is contained in the Initial Address Message (IAM) portion of the CCS7 call setup.

**COMMON CHANNEL SIGNALING SYSTEM 7 (CCS7)** - A network signaling technology in which all signaling information between two or more nodes is transmitted over high-speed data links, rather than over voice circuits.

**SERVICE CONTROL POINTs (SCPs)** - The real-time data base systems that contain the names to be provided in response to queries received from CNAM SSPs.

**SERVICE MANAGEMENT SYSTEM (SMS)** - The main operations support system of CNAM DATABASE SERVICE. CNAM records are loaded into the SMS, which in turn downloads into the CNAM SCP.

**SERVICE SWITCHING POINTs (SSPs)** - Features of computerized switches in the telephone network that determine that a terminating line has subscribed to CNAM service, and then communicate with CNAM SCPs in order to provide the name associated with the calling party number.

**SUBSYSTEM NUMBER (SSN)** - The address used in the Signaling Connection Control Part (SCCP) layer of the SS7 protocol to designate an application at an end signaling point. A SSN for CNAM at the end office designates the CNAM application within the end office. BellSouth uses the CNAM SSN of 232.

### **2. ATTACHMENT**

- 2.1 This Attachment contains the terms and conditions where BellSouth will provide to NOW access to the BellSouth CNAM SCP for query or record storage purposes.

NOW shall submit to BellSouth a notice of its intent to access and utilize BellSouth CNAM Database Services pursuant to the terms and conditions of this Attachment. Said notice shall be in writing, no less than 60 days prior to NOW's access to BellSouth's CNAM Database Services and shall be addressed to NOW's Account Manager.

### **3. PHYSICAL CONNECTION AND COMPENSATION**

- 3.1 BellSouth's provision of CNAM Database Services to NOW requires interconnection from NOW to BellSouth CNAM Service Control Points (SCPs). Such interconnections shall be established pursuant to Attachment 3 of this Agreement. The appropriate charge for access to and use of the BellSouth CNAM Database service shall be as set forth in this Attachment.
- 3.2 In order to formulate a CNAM query to be sent to the BellSouth CNAM SCP, NOW shall provide its own CNAM SSP. NOW's CNAM SSPs must be compliant with TR-NWT-001188, "CLASS Calling Name Delivery Generic Requirements".
- 3.3 If NOW elects to access the BellSouth CNAM SCP via a third party CCS7 transport provider, the third party CCS7 provider shall interconnect with the BellSouth CCS7 network according to BellSouth's Common Channel Signaling Interconnection Guidelines and Telcordia (formerly BellCore)'s CCS Network Interface Specification document, TR-TSV-000905. In addition, the third party provider shall establish CCS7 interconnection at the BellSouth Local Signal Transfer Points (LSTPs) serving the BellSouth CNAM SCPs that NOW desires to query.
- 3.4 Out-Of-Region Customers. If the customer queries the BellSouth CNAM SCP via a third party national SS7 transport provider, the third party SS7 provider shall interconnect with the BellSouth CCS7 network according to BellSouth's Common Channel Signaling Interconnection Guidelines and Bellcore's CCS Network Interface Specification document, TR-TSV-000905. In addition, the third party provider shall establish SS7 interconnection at one or more of the BellSouth Gateway Signal Transfer Points (STPs). The payment of all costs associated with the transport of SS7 signals via a third party will be established by mutual agreement of the parties and writing shall, by this reference become an integral part of this Agreement.

### **4. CNAM RECORD INITIAL LOAD AND UPDATES**

- 4.1 The mechanism to be used by NOW for initial CNAM record load and/or updates shall be determined by mutual agreement. The initial load and all updates shall be provided by NOW in the BellSouth specified format and shall contain records for every working telephone number that can originate phone calls. It is the responsibility of NOW to provide accurate information to BellSouth on a current basis.

- 4.2 Updates to the SMS shall occur no less than once a week, reflect service order activity affecting either name or telephone number, and involve only record additions, deletions or changes.
- 4.3 NOW CNAM records provided for storage in the BellSouth CNAM SCP shall be available, on a SCP query basis only, to all parties querying the BellSouth CNAM SCP. Further, CNAM service shall be provided by each party consistent with state and/or federal regulation.

BELL SOUTHWEST RATES  
ODUF/EDU/CH/MS/CNAM

RATES BY STATE										
	USOC	AL	FL	GA	KY	LA	MS	NC	SC	TN
DESCRIPTION										
ODUF/EDU/CH/MS	N/A	\$0.0002	\$0.008	\$0.008	\$0.0008611	\$0.00019	\$0.0001179	\$0.008	\$0.0002862	\$0.008
ODUF: Recording, per message	N/A	\$0.0033	\$0.004	\$0.004	\$0.0032357	\$0.0024	\$0.0032089	\$0.004	\$0.0032344	\$0.004
ODUF: Message Processing, per message	N/A	\$0.004	\$0.004	\$0.004	\$0.004	\$0.004	\$0.004	\$0.004	\$0.004	\$0.004
EDU/CH: Message Processing, per message	N/A	\$0.004	\$0.004	\$0.004	\$0.004	\$0.004	\$0.004	\$0.004	\$0.004	\$0.004
CH/MS: Message Processing, per message	N/A	\$55.19	\$54.95	\$54.95	\$55.68	\$47.30	\$54.62	\$54.95	\$54.72	\$54.95
ODUF: Message Processing, per magnetic tape provisioned	N/A	\$47.30	\$47.30	\$47.30	\$47.30	\$47.30	\$47.30	\$47.30	\$47.30	\$47.30
EDU/CH: Message Processing, per magnetic tape provisioned	N/A	\$0.0004	\$0.001	\$0.001	\$0.000365	\$0.0003	\$0.000354	\$0.001	\$0.000357	\$0.001
ODUF: Data Transmission (CONNECT/DIRECT), per message	N/A	\$0.000364	\$0.000364	\$0.000364	\$0.000364	\$0.000364	\$0.000364	\$0.000364	\$0.000364	\$0.000364
EDU/CH: Data Transmission (CONNECT/DIRECT), per message	N/A	\$0.001	\$0.001	\$0.001	\$0.001	\$0.001	\$0.001	\$0.001	\$0.001	\$0.001
CNAM: Data Transmission (CONNECT/DIRECT), per message										
CALLING NAME (CNAM) QUERY SERVICE										
CNAM (Database Owner), Per Query *	N/A	\$0.016	\$0.016	\$0.016	\$0.016	\$0.016	\$0.016	\$0.016	\$0.016	\$0.016
CNAM (Non-Database Owner), Per Query *	N/A	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01
NRC: applicable when NOW uses the Character Based User Interface (CHUI) method to transmit the names to the BellSouth CNAM database	N/A	\$595.00	\$595.00	\$595.00	\$595.00	\$595.00	\$595.00	\$595.00	\$595.00	\$595.00
* Volume and term arrangements are also available.										

NOTES:  
if no rate is identified in the contract, the rate for the specific service or function will be as set forth in applicable BellSouth tariff or as negotiated by the parties upon request by either party.

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If no rate is identified in the contract, the rate for the specific service or function will be as set forth in applicable BellSouth tariff or as negotiated by the parties upon request by either party.